

Exhibit B

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

- - -
JASON MARINO and :
JOY MARINO, h/w and :
THOMAS MARINO and :
LISA MARINO, h/w :
:

v. : CIVIL ACTION NO:
: 5:14-cv-046725 JLS

PILOT TRAVEL :
CENTERS, LLC and :
SOVEREIGN :
CONSULTING, INC. :

- - -
MAY 12, 2015
- - -

Videotape deposition of
JASON MARINO, taken pursuant to notice,
was held at the Bar Association of Lehigh
County, 1114 West Walnut Street,
Allentown, Pennsylvania, commencing at
10:16 a.m., on the above date, before
Maura B. Doyle, a Registered Professional
Reporter and Notary Public in and for the
Commonwealth of Pennsylvania.

- - -

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2

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16

17

18

ALSO PRESENT :

19

STEVEN SABIA (VIDEOGRAPHER)
20 JOY MARINO

21

22

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24

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MAGNA 
LEGAL SERVICES

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1 THE VIDEOGRAPHER: We're now
2 on the record. This begins DVD
3 Number 1 in the deposition of Jason
4 Marino in the matter of Marino, et
5 al., v. Pilot Travel Centers, LLC
6 in the U.S. District Court for the
7 Eastern District of PA.

8 Today is Tuesday, May 12th,
9 2015 and the time is 10:12 a.m.

10 This deposition is being
11 taken at 1114 West Walnut Street,
12 Allentown, PA at the request of
13 Marks, O'Neill, O'Brien, Doherty
14 and Kelly.

15 The videographer is Steve
16 Sabia of Magna Legal Service and
17 the court reporter is Maura Doyle
18 of Magna Legal Service.

19 Will counsel please state
20 their appearance and whom they
21 represent.

22 MR. LYNAM: Tom Lynam and
23 Lenny Villari for the plaintiffs.

24 MR. LAMB: Patrick Lamb for

1 Sovereign.

2 MR. HARRINGTON: Tom
3 Harrington for Pilot Travel
4 Centers.

5 THE VIDEOGRAPHER: And will
6 the court reporter please swear in
7 the witness.

8 - - -

9 JASON MARINO, after having
10 been duly sworn, was examined and
11 testified as follows:

12 - - -

13 EXAMINATION

14 - - -

15 BY MR. LAMB:

16 Q. Good morning, Mr. Marino.
17 We've met on a couple other occasions, I
18 think. My name is Patrick Lamb.

19 How are you?

20 A. Pretty good.

21 Q. Good. I'm going to take your
22 deposition today. And I'm sure your
23 attorneys have probably told you some of
24 the instructions that I'll give you. But

1 just if you could hear me out real fast.

2 If at any time you want to
3 take a break, just tell me and I'll be --
4 I'll be free to accommodate you at any
5 time. Just mention it. Okay?

6 A. Okay.

7 Q. I'll ask that you answer any
8 question that's been posed before you
9 take a break and then we can take a break
10 after that. Okay?

11 A. All right.

12 Q. If at any time I'm talking
13 too quickly, you know, you get
14 distracted, which happens sometimes, or
15 for some reason you didn't hear or
16 understand the question I asked, please
17 tell me. I'll be happy to restate or
18 rephrase the question. Okay?

19 A. All right.

20 Q. We don't want you to guess,
21 so please don't guess or speculate unless
22 you're specifically asked to do so.
23 Okay?

24 A. All right.

1 Q. We just want to know what you
2 know.

3 A. All right.

4 Q. And you have your counsel
5 here with you --

6 A. Yes.

7 Q. -- right? Mr. Villari and
8 Mr. Lynam are both here?

9 A. Yes.

10 Q. All right. Are you ready to
11 go?

12 A. Yes.

13 Q. All right. Good.

14 Sir, where were you born at?

15 A. Allentown.

16 Q. Okay. And what was your date
17 of birth?

18 A. 8/28/81.

19 Q. What -- where did you grow up
20 at? What part of Allentown?

21 A. I grew up in Slatington.

22 Q. What did your parents do for
23 a living?

24 A. My dad was the -- electronics

1 and my mom was special ed assistant for
2 school.

3 Q. What do you mean by
4 electronics?

5 A. He worked for Ford
6 Electronics and then... Merck.

7 Q. And when you -- but when I --
8 when you say he worked in electronics,
9 what do you mean by electronics? What
10 did he do day to day?

11 A. I -- I don't know what he
12 did.

13 Q. Okay. And do you know any
14 other occupation he worked in other than
15 working in electronics?

16 A. No.

17 Q. Was that a manual labor job
18 or more of a white collar job? Blue
19 collar? What type of job did he have?

20 A. Blue collar maybe.

21 Q. Okay. Where did you go to
22 grade school?

23 A. Northern Lehigh.

24 Q. And where did you go to high

1 school?

2 A. Northern Lehigh.

3 Q. Did you play any sports in
4 high school?

5 A. Yes.

6 Q. What did you play?

7 A. Baseball, football.

8 Q. Anything else?

9 A. No.

10 Q. What's the first job you ever
11 held?

12 A. Paper. Newspaper delivery.

13 Q. And when did you do that?

14 A. When I was 13.

15 Q. And for how many years?

16 A. Till I was 18.

17 Q. Okay. What's -- did you hold
18 any other jobs in your teens?

19 A. Yes.

20 Q. What other jobs did you have?

21 A. I worked at Palmerton
22 Hospital.

23 Q. Can you just speak up just
24 a -- we're going to just need you to be a

1 little louder.

2 You worked at where?

3 A. Palmerton Hospital.

4 Q. And what did you do at
5 Palmerton Hospital?

6 A. Dietary.

7 Q. What was that? What would
8 you do as dietary?

9 A. Hand out food.

10 Q. And what -- what ages were
11 you working there?

12 A. I... I was like 18.

13 Q. Until when? Until how old
14 were you when you stopped working there?

15 A. 18.

16 Q. Oh. Just 18?

17 A. Yeah. It was just a
18 part-time job.

19 Q. Okay. And did you have any
20 education after high school?

21 A. Some college.

22 Q. All right. And where did you
23 go -- where did you do your college?

24 A. L-Tri-C.

1 Q. (Counsel indicating.)

2 A. L-Tri-C.

3 Q. Can you spell that for me
4 or -- L Tracy?

5 A. L-Tri-C. Lehigh Carbon
6 Community College.

7 Q. Okay. How long did you go
8 there?

9 A. A semester.

10 Q. And then why did you leave?

11 A. I went and got a job in
12 plumbing.

13 Q. What was your first job in
14 plumbing?

15 A. Construction plumbing.

16 Q. And who did you work for?

17 A. Worth & Company.

18 Q. W-O-R-T-H?

19 A. Yes.

20 Q. Started when you were 19?

21 A. No. I worked there when I
22 was 22.

23 Q. What did you do between age
24 18 and 22?

1 A. Odds-and-end jobs.

2 Q. Like what?

3 A. I did -- worked at BJ's, put
4 tires on cars.

5 Q. Okay.

6 A. I don't remember what else I
7 did.

8 Q. Did you ever cut lawns for a
9 living? Or not even for a living. Did
10 you ever cut lawns or work for a lawn
11 service?

12 A. I worked for Grim's
13 Landscaping.

14 Q. For how long?

15 A. For like a half of a summer.

16 Q. What summer would that have
17 been?

18 A. 2001 maybe.

19 Q. And what did you do for them?

20 A. I drove their work truck.

21 Q. Did you actually cut lawns
22 and trim bushes and do stuff like that?

23 A. No.

24 Q. So you were just driving a

1 truck?

2 A. Yes.

3 Q. And what -- what was -- what
4 kind of truck was it?

5 A. It was just a regular Ford
6 pickup truck.

7 Q. And what was your purpose of
8 driving it around? What would you do?

9 A. I would take mulch to places.

10 Q. Okay. And deliver mulch?

11 A. Yep.

12 Q. Was that a gas truck or a
13 diesel truck?

14 A. I don't remember.

15 Q. Did you fuel the truck up at
16 the beginning of the day or during the
17 day?

18 A. It was at the end of the day.

19 Q. And you would fuel it up?

20 A. Yes.

21 Q. You don't remember if it was
22 diesel or gas?

23 A. No.

24 Q. When you were growing up, did

1 you cut your own parents' lawn?

2 A. Sometimes.

3 Q. And what kind of mower did
4 they have? Gas or electric?

5 A. Gas.

6 Q. Did you ever fill that mower
7 with gasoline?

8 A. Yes.

9 Q. Did you ever do the thing
10 where you had to mix the oil and the
11 gasoline together?

12 A. No --

13 Q. Was it that kind or did it
14 take pure gasoline?

15 A. Just pure gas.

16 Q. Okay. How about did they
17 have, like, a weed -- a trimmer?

18 A. Yes.

19 Q. Was that gas or electric?

20 A. Gas.

21 Q. And, again, did you ever have
22 to fill that up with gasoline at any
23 time?

24 A. Yes.

1 Q. When you were filling up your
2 own parents' lawn mower or trimmer, did
3 you ever spill any gas on your hands?

4 A. Don't remember. Probably,
5 yeah.

6 Q. Okay.

7 MR. LYNAM: Jason, if you
8 don't remember, the answer is I
9 don't remember. I don't want --

10 THE WITNESS: All right.

11 MR. LYNAM: -- you guessing
12 at anything.

13 MR. LAMB: Well --

14 MR. LYNAM: No, not well. We
15 don't want him guessing at
16 anything. Fair?

17 MR. LAMB: I -- I don't want
18 him guessing but that was the
19 beginning of my next question.

20 MR. LYNAM: Oh. I thought
21 you were talking to me.

22 MR. LAMB: No.

23 MR. LYNAM: See, I'm ready to
24 fight with you already.

1 MR. LAMB: You're ready to
2 fight me already. I'm just about
3 to start another question.

4 MR. LYNAM: Right. Right.

5 MR. LAMB: It's an honest
6 question. You know?

7 BY MR. LAMB:

8 Q. Did you do any landscaping
9 work after you worked for -- you said it
10 was Grim's Landscaping; right?

11 A. Yes.

12 Q. Did you do any landscaping in
13 your life after that?

14 A. At my parents' place.

15 Q. Okay. Before -- and -- and
16 that was -- there's a better question in
17 there. Did you do any landscaping where
18 you were paid to do it at someone else's
19 property other than at Grim's
20 Landscaping?

21 A. No.

22 Q. Okay. So do -- when did you
23 move out of your parents' house? How old
24 were you?

1 A. 21.

2 Q. And where did you move to?

3 A. To Allentown.

4 Q. Okay. And was it, like, an
5 apartment you had or -- or a house you
6 shared or where -- where did you move to?

7 A. It was a house.

8 Q. And who did you share the
9 house with or did you have it alone?

10 A. My wife.

11 Q. So you got married when you
12 were 21?

13 A. No. She was my girlfriend at
14 the time.

15 Q. Okay. What's the address of
16 that house?

17 A. I don't know.

18 Q. All right. Was it like --
19 describe what type of house it was. Did
20 it have a lawn?

21 A. Yeah.

22 Q. Did you have to cut the lawn?

23 A. No.

24 Q. All right. The real -- the

1 land -- or the -- the owner of the
2 property did that?

3 A. No. It was all dirt.

4 Q. Oh. It was all dirt.

5 A. Yeah.

6 Q. Okay. Now, after you moved
7 out of your parents' house, did you
8 continue to cut their grass?

9 A. No.

10 Q. Okay. So until age 21, did
11 you cut their grass?

12 A. I don't remember.

13 Q. Okay. When did you start at
14 your parents' house where you would use
15 their gas-powered mower or gas-powered
16 trimmer? How old were you?

17 A. I don't remember what age I
18 was.

19 Q. All right. Do you remember
20 whether you were in grade school or high
21 school?

22 A. Junior high.

23 Q. Junior high.

24 Which up here would be what

1 grades? 7 and 8?

2 A. 7th, 8th, and 9th.

3 Q. 7th, 8th, and 9th. Okay.

4 So somewhere in that span is
5 when you started being able to be
6 responsible enough to cut the grass at
7 your parents' house.

8 A. Yes.

9 Q. Okay. And then were you the
10 person, that was your chore, like every
11 week or two during the summer that you
12 had to do it?

13 A. No.

14 Q. All right. So how often
15 would you do it?

16 A. Maybe once a month.

17 Q. Okay. So where did you
18 live -- how long did you live in that
19 first house with your current wife, who
20 was your girlfriend at the time?

21 A. I don't recall how long it
22 was. It wasn't long.

23 Q. All right. Do you remember
24 the next place you lived at?

1 A. Yes. It was in
2 Breinigsville.

3 Q. Was that a house?

4 A. Yes.

5 Q. Did you purchase it or rent
6 it?

7 A. Rent.

8 Q. And at that point, you were
9 working as a plumber.

10 A. Yes.

11 Q. And did that house have a
12 lawn --

13 A. Yes.

14 Q. -- and grass?

15 Did you cut it yourself?

16 A. Yes.

17 Q. And no one else cut it?

18 A. My wife.

19 Q. Okay. Who did -- who did it
20 most of the time?

21 A. Me.

22 Q. And you used a gas mower?

23 A. Yes.

24 Q. Did you have a gas trimmer,

1 too?

2 A. No. No trimming.

3 Q. Do you still live in
4 Breinigsville?

5 A. No.

6 Q. How long did you live there?

7 A. A year.

8 Q. And then where did you move
9 to?

10 A. Lyons.

11 Q. Could you spell that or say
12 it a little more clearly?

13 A. Lyons.

14 Q. All right. And was that a
15 house?

16 A. Yes.

17 Q. And, again, with your wife?

18 A. Yes.

19 Q. Were you married at that
20 point?

21 A. No.

22 Q. All right. How old were you
23 when you moved to Lyons?

24 A. I don't know.

1 Q. I'm -- it looks like based on
2 what you're saying here, you might have
3 been about 23?

4 A. Generally, yeah.

5 Q. Okay. And that was a house
6 with your wife. Did that have a lawn?

7 A. Yes.

8 Q. You cut that grass too?

9 A. Yes.

10 Q. Now, did you have your own
11 mower?

12 A. Yes.

13 Q. Okay. Gas trimmer or no?

14 A. No.

15 Q. Did you use any other
16 gas-powered devices to maintain your
17 property at either Breinigsville or
18 Lyons?

19 A. No.

20 Q. Okay. How long were you in
21 Lyons?

22 A. A year.

23 Q. And then where did you move?

24 A. Topton.

1 Q. (Counsel indicating.)

2 A. Topton.

3 Q. Okay. Another house?

4 A. Yes.

5 Q. Another lawn?

6 A. Yes.

7 Q. And you're cutting the lawn
8 again?

9 A. Yep.

10 Q. Okay. And how long were you
11 in Topton?

12 A. A year.

13 Q. And then where did you move?

14 A. Maxatawny.

15 Q. Okay.

16 MR. HARRINGTON: Say that
17 again for me.

18 THE WITNESS: Maxatawny.

19 MR. HARRINGTON: Thank you.

20 Q. (Continued) And how long did
21 you live there?

22 A. I'm not sure how long it was.

23 Q. Okay. Was it more than a
24 year?

1 A. What?

2 Q. Was it more than a year?

3 A. Yes.

4 Q. Okay. And, again, did that
5 property have a lawn that you had to cut?

6 A. Yes.

7 Q. How big was the lawn in
8 Topton?

9 A. It was a townhome. It wasn't
10 very big.

11 Q. How about Maxatawny?

12 A. Maxatawny wasn't very big
13 either.

14 Q. Was it a single-family home
15 you were living in?

16 A. Yes.

17 Q. Okay. Do you remember the
18 address in Maxatawny?

19 A. No.

20 Q. Do you remember the street?

21 A. Kutztown Road.

22 Q. Where did you live after
23 Maxatawny?

24 A. Topton.

1 Q. Back to Topton. Back to the
2 same place?

3 A. No. It was a different one.

4 Q. All right. Single-family
5 home?

6 A. Yes.

7 Q. Are you married at that
8 point?

9 A. Yes.

10 Q. And how old were you about
11 when you moved back to Topton?

12 A. I don't remember.

13 Q. How old were you when you got
14 married?

15 A. I don't know.

16 Q. Okay. Do you remember what
17 year you got married?

18 A. (No verbal response.)

19 MR. LYNAM: You're --

20 Q. You're going to have some
21 serious problems --

22 MR. LYNAM: Now you're just
23 being mean, Pat.

24 MR. LAMB: I know.

1 Q. (Continued) You're going to
2 have some serious problems when you get
3 home tonight.

4 A. I don't know.

5 JOY MARINO: (Indicating.)

6 Q. How long did you live in
7 Topton --

8 A. A year.

9 Q. -- the second time?

10 All right. And where did you
11 move next?

12 A. Slatington.

13 Q. Is that where you live now?

14 A. Yes.

15 Q. What's your address now?

16 A. 324 Diamond Street.

17 Q. When you moved back to Topton
18 the second time, did that house have a
19 lawn?

20 A. Yes.

21 Q. And did you cut it?

22 A. Yes.

23 Q. And when you moved back to
24 Slatington, did that house, your current

1 house, have a lawn?

2 A. Yes.

3 Q. How big is the property?

4 A. It's a corner lot.

5 Q. Okay.

6 A. I don't know how big it is.

7 Q. Okay. And do you cut the

8 grass there?

9 A. Yes.

10 Q. Do you still do it?

11 A. Yes.

12 Q. All right. How often do you

13 cut it, like, during this weather?

14 A. Every other week.

15 Q. Gas-powered mower?

16 A. Yes.

17 Q. Do you have a gas-powered

18 trimmer?

19 A. Yes.

20 Q. And you do that too?

21 A. Yep.

22 Q. Now, that takes the oil/gas

23 mixture; right?

24 A. Correct.

1 Q. So you have to have two.
2 You're like me probably. You have two
3 gas cans. One, it says do not pour into
4 a car for -- I have it for my teenage
5 kids so they don't pour it into their
6 car, and then one that has pure gasoline
7 in it; right?

8 A. Yeah.

9 Q. Okay.

10 MR. VILLARI: You let your
11 kids cut the grass, Pat?

12 MR. LAMB: I would never have
13 my kids do anything as menial as
14 cut the grass. Their father has to
15 do that. Come on, Lenny.

16 MR. VILLARI: How are you
17 feeling? Okay?

18 MR. LAMB: What's that?

19 MR. VILLARI: You feeling
20 okay?

21 MR. LAMB: Yeah. Why?

22 MR. VILLARI: I was just
23 wondering.

24 BY MR. LAMB:

1 Q. So you're at Diamond Street
2 now. How long were you with Worth
3 plumbing?

4 A. I don't know. I don't --

5 Q. Like 10 years? 5 years? 15
6 years? 20 years? Can you give me -- I
7 don't want you to guess, but can you give
8 me just kind of an estimate?

9 A. Five.

10 Q. Five years.

11 MR. HARRINGTON: Was it
12 plumbing or construction, Worth
13 plumbing?

14 THE WITNESS: It was
15 construction, plumbing. They're --

16 MR. HARRINGTON: Okay. I'm
17 just looking for the name of the
18 company. It was Worth plumbing?

19 THE WITNESS: Worth &
20 Company.

21 MR. HARRINGTON: Worth &
22 Company.

23 BY MR. LAMB:

24 Q. Oh. I'm sorry. I called it

1 Worth plumbing. I'm sorry. Worth -- how
2 long were you with Worth & Company?

3 A. Roughly five years.

4 Q. Okay. So when you started
5 there, had you done any plumbing before?

6 A. No.

7 Q. So they trained you how to be
8 a plumber?

9 A. Yes.

10 Q. And you said it was
11 construction plumbing. So give us some
12 idea what you mean by construction
13 plumbing?

14 A. Ground up, buildings.

15 Q. Okay. So you would enter the
16 building after the rough framing was
17 complete?

18 A. Before.

19 Q. Before the rough framing was
20 complete.

21 A. (Witness nods head.)

22 Q. Okay. And tell me what you
23 would do.

24 A. We would do the underground

1 plumbing and then work our way to the
2 finish of the building.

3 Q. Okay. So what is -- so let's
4 start at the bottom of the building.
5 You'd do the underground plumbing. What
6 did that consist of?

7 A. Putting pipe in the ground
8 where the blueprint said.

9 Q. Okay. So would it be the
10 soil exit pipe you would put in as well
11 as the -- the water supply coming into
12 the building?

13 A. Correct.

14 Q. Okay. Any other piping that
15 you would put in the ground?

16 A. All depends on the building.

17 Q. Okay. Up here, are you
18 permitted to use PVC for the soil line?

19 A. In some counties.

20 Q. And in other counties, what
21 do you have to use, the cast iron?

22 A. Cast iron.

23 Q. Okay. Did you work with
24 both?

1 A. Yes.

2 Q. All right. And for the
3 supply lines, were they copper, PVC, or a
4 combination of both? How did that work?

5 A. Copper.

6 Q. Copper. Okay.

7 So when you started there,
8 who -- did you have a crew you worked
9 with at Worth & Company?

10 A. Yeah. It changed.

11 Q. Okay. So when you started, I
12 imagine you were kind of an apprentice?

13 A. Yes.

14 Q. And how long were you there
15 before you became -- you know, you moved
16 up from an apprentice to, like, a
17 journeyman?

18 A. Three years.

19 Q. Okay. Was that an official
20 program you were in or was that their --
21 their -- their discretion?

22 A. It was at their discretion.

23 Q. All right. And did you get a
24 pay raise when you moved in to -- did

1 they actually call it a journeyman
2 status?

3 A. No.

4 Q. What did they call it when
5 you moved up?

6 A. They didn't really -- there
7 was nothing.

8 Q. Did you get a pay raise then?

9 A. It was rate jobs so the
10 county told you what you were getting
11 paid.

12 Q. Okay. And is that because
13 Worth & Company, most of their work was
14 for the county?

15 A. Yes.

16 Q. Okay. And when you would do
17 those jobs, was there a time when you
18 became the senior person on the job --

19 A. No.

20 Q. -- as opposed to the junior?

21 A. No.

22 Q. Not while you were with
23 Worth?

24 A. No.

1 Q. You always had someone senior
2 to you on the job.

3 A. Yes.

4 Q. In doing the PVC soil pipes,
5 what lengths did those pipes come in?

6 A. 20-foot, 10-foot.

7 Q. Okay. And how would they be
8 attached to each other?

9 A. Primer and glue.

10 Q. I'm sorry?

11 A. Primer and glue.

12 Q. Okay. And what was the name
13 on the primer? Do you remember the brand
14 name?

15 A. I don't know.

16 Q. So explain to me that
17 process, how that was done, how you would
18 connect two PVC pipes.

19 A. You would primer it and then
20 you would glue it.

21 Q. Okay. And then you would fit
22 them together?

23 A. Yes.

24 Q. Would you have to wait for

1 the primer to dry?

2 A. No.

3 Q. All right. When you put the
4 primer on, would you wear any type of
5 breathing apparatus?

6 A. Not that I -- no.

7 Q. Okay. When you would put the
8 glue on, would you wear any type of
9 breathing apparatus?

10 A. No.

11 Q. Okay. Would you wear gloves
12 when you put the primer on?

13 A. We would have gloves on, yes.

14 Q. What kind of gloves?

15 A. Just like rubber gloves.

16 Like rubber bottoms, cloth top.

17 Q. Okay. And would you have
18 those same gloves on when you did the
19 glue?

20 A. Yes.

21 Q. Now, did you always have to
22 wear long sleeves or could you wear short
23 sleeves?

24 A. You could wear whatever.

1 Q. Okay. Could you wear shorts?

2 A. No.

3 Q. Okay. So it had to be pants
4 and shirt --

5 A. Yes.

6 Q. -- of some sort.

7 A. Yes.

8 Q. Did you -- were you ever
9 exposed to the primer, meaning you got it
10 on your skin at any point in the five
11 years you worked at Worth & Company?

12 A. I don't remember.

13 Q. Okay. Were you ever exposed
14 to the glue during the five years you
15 worked at Worth & Company?

16 MR. LYNAM: Objection to the
17 form. What you do mean by exposed?

18 Q. Did it touch -- I -- I'll be
19 more clear. Did you ever -- did the glue
20 while you were working at Worth & Company
21 ever touch your skin?

22 A. Don't remember.

23 Q. Okay. So I have Worth &
24 Company -- if you worked there five

1 years, I would estimate based on your
2 testimony thus far that that was roughly
3 between the ages of 22 and 27 years old.

4 A. Correct.

5 Q. Does that sound about right?

6 A. About right, yeah.

7 Q. Okay. Why did you leave that
8 employment?

9 A. I broke my foot.

10 Q. Let me tell you one other
11 thing too. Sometimes people see us
12 taking notes. You probably see Mr.
13 Harrington writing like crazy and every
14 once in a while, you'll see me writing.
15 Don't let that lead you in any direction.
16 Sometimes we're -- we're writing
17 something down we thought of that's
18 totally different. Sometimes it's
19 important. Sometimes it's not important.
20 I always tell witnesses that because
21 sometimes I think they're concerned about
22 what we're writing down as if, you know,
23 something they're saying is wrong or
24 right or, you know -- or any other way.

1 It -- it's no message.

2 MR. LYNAM: Tom is making his
3 grocery list --

4 MR. LAMB: Yeah.

5 MR. LYNAM: -- from the other
6 dep --

7 MR. HARRINGTON: You can tell
8 'cause I'm so fat.

9 Q. (Continued) So anyway...
10 So we were talking about your
11 job at Worth & Company and we went
12 through the soil pipes. Now let's talk
13 about the water supply pipes. Would
14 those come off of what, a water main?

15 A. Yes.

16 Q. And would you have to
17 progressively reduce the size of the pipe
18 as it got to the building and then up
19 through the top of the building?

20 A. Correct.

21 Q. And would those -- would
22 those all be copper?

23 A. Yes.

24 Q. Okay. So tell me how you

1 join a copper pipe. Explain that to
2 me --

3 A. You --

4 Q. -- how you connect it.

5 A. You solder it.

6 Q. Okay. And what do you use
7 then? Assume that -- the jury may see
8 this. Assume that none of them have ever
9 soldered a pipe before. Tell us what you
10 do to solder a pipe.

11 A. You clean it with emery
12 cloth. You put flux on it and then you
13 put them together, heat it up and let the
14 solder wrap around.

15 Q. Okay. What's the flux made
16 out of?

17 A. I don't know.

18 Q. All right. And what's the
19 solder made out of?

20 A. I don't know.

21 Q. Okay. The solder, is that
22 the -- it almost looks like a thick wire?
23 It comes in a little spool?

24 A. Correct.

1 Q. And you kind of string it out
2 around the joint of the pipe and -- and
3 melt it on there so it forms, like,
4 almost a metal -- metallic seal?

5 A. Correct.

6 Q. Okay. And so each piece of
7 pipe you put together, you would have to
8 do that.

9 A. Yes.

10 Q. Okay. Did you wear any type
11 of breathing apparatus at any time when
12 you would connect copper pipes?

13 A. No.

14 Q. So once the copper pipes, the
15 feed pipes, are in the building, do
16 you -- do you then distribute them
17 throughout the floors of the building in
18 the bathrooms and other areas and stuff
19 like that?

20 A. Yes.

21 Q. Okay. So you -- would you
22 personally, meaning Jason Marino, be
23 doing all that connecting throughout the
24 building?

1 A. No.

2 Q. Who would?

3 A. Guys on the job site. Other
4 plumbers.

5 Q. Would you be doing any of
6 that connecting?

7 A. Not with Worth & Company.

8 Q. Okay. So explain to me why
9 not.

10 A. 'Cause I was an apprentice.

11 Q. Okay. So for the first three
12 years as an apprentice, you would not
13 connect any pipes at all?

14 A. You would make drops. That's
15 all you would do.

16 Q. Explain what making a drop
17 is.

18 A. You'd make them for in the
19 wall so when they built the wall, they
20 would come out. You would stand there
21 with a mason and drop it in as he would
22 put cinder block up.

23 Q. Meaning drop what in? A pipe
24 in?

1 A. Yes.

2 Q. But you wouldn't actually
3 connect those pipes.

4 A. No.

5 Q. So for your last two years
6 with -- with Worth & Company when you
7 were no longer an apprentice or however
8 they designated you, were you then able
9 to connect those pipes?

10 A. Yes.

11 Q. Okay. So we have two years
12 at Worth & Company when you were actually
13 connecting copper and PVC pipes.

14 A. Correct.

15 Q. Okay. Where did you work
16 after Worth & Company?

17 A. JL Urlich.

18 MR. LAMB: Did you get that?

19 Q. I'm sorry. JL?

20 A. Urlich.

21 Q. U-R-I-C-H?

22 A. U-R-L-I-C-H.

23 Q. Urlich. Okay.

24 A. Yeah.

1 Q. Where is that located at?

2 A. Macungie.

3 Q. So was there a time when you
4 were not employed due to your broken
5 foot?

6 A. Yes.

7 Q. How did you break your foot?

8 A. I slipped and fell.

9 Q. On a job site?

10 A. Yes.

11 Q. And did you recover workers'
12 compensation for that?

13 A. Yes.

14 Q. And how long were you out of
15 work?

16 A. I don't recall how long it
17 was.

18 Q. Was it more or less than six
19 months?

20 A. I don't remember.

21 Q. All right. I'll ask you one
22 more just time span. Was it more or less
23 than a year?

24 A. Less than a year.

1 Q. Okay. Did that foot -- which
2 foot was it?

3 A. My left.

4 Q. I see you're moving your feet
5 under the table.

6 Your left foot, did that
7 eventually recover, that left foot?

8 A. Yes.

9 Q. Okay. Did it fully recover?

10 A. Yes.

11 Q. So if you took roughly
12 somewhere between six months and a year
13 off for the foot, I have you moving to JL
14 Urlich when you're -- Urlich -- I'm
15 sorry -- when you're about 28 years old?

16 A. Roughly.

17 Q. Okay. Do you start there as
18 an apprentice or as, you know, the
19 equivalent of, like, a journeyman
20 plumber?

21 A. Equivalent to a journeyman.

22 Q. All right. And what type of
23 work did you do at JL Urlich?

24 A. Rough plumbing.

1 Q. Residential or -- or
2 commercial or both?

3 A. Commercial.

4 Q. So were you basically doing
5 the same thing that you were doing at the
6 end of your tenure at Worth?

7 A. Yes.

8 Q. And that would be doing all
9 those connections we talked about.

10 A. Correct.

11 Q. Connecting PVC or connecting
12 cast iron or copper.

13 A. We did a lot of cast iron.

14 Q. How do you connect cast iron?

15 A. Rubber bands.

16 Q. Okay. Is there any chemical
17 involved in that at all?

18 A. No.

19 Q. It's just literally --
20 explain it to me in detail if you can.

21 A. It's a rubber band with a
22 metal brace around it and you crank them
23 down.

24 Q. So they -- they're threaded,

1 the -- the cast iron.

2 A. No.

3 Q. They're not threaded?

4 A. No.

5 Q. Okay. So you -- you did not
6 do any PVC while you were with Urlich?

7 A. Not much.

8 Q. Not much. Okay.

9 How many years were you
10 there?

11 A. A year.

12 Q. Where did you go after that?

13 A. REMCO.

14 Q. REMCO?

15 So I've got you roughly 29
16 years old, going into 30 when you get to
17 REMCO?

18 A. Roughly.

19 Q. And that's your first stint
20 at REMCO; right?

21 A. Yes.

22 Q. As you sit here today, you're
23 33 years old?

24 A. Correct.

1 Q. So your first -- why did you
2 leave Urlich?

3 A. Got a better offer at REMCO.

4 Q. Okay. More salary?

5 A. No. Better benefits.

6 Q. In terms of what types of
7 benefits?

8 A. Health care.

9 Q. And why was that important to
10 you?

11 A. 'Cause I had a family.

12 Q. How many children do you
13 have?

14 A. Two.

15 Q. And what are their ages?

16 A. 6 and 4.

17 Q. How were the benefits
18 different at REMCO, do you remember?

19 A. Everything was covered for
20 when my wife had a baby.

21 Q. Okay. And that was not true
22 at Urlich?

23 A. Correct.

24 Q. So when you started at REMCO,

1 29 years old -- and we have those dates
2 of employment so I won't try to get --
3 get those from you. We -- that -- this
4 was the first stint at REMCO, though;
5 right?

6 A. Correct.

7 Q. And what type of work were
8 you doing for REMCO?

9 A. Service plumbing.

10 Q. Is that different than what
11 you had done in the past?

12 A. Yes.

13 Q. Tell me how it's different.
14 What -- or tell me what service plumbing
15 is.

16 A. Service plumbing is you go in
17 and repair stuff.

18 Q. Things that are broken or
19 clogged or whatever.

20 A. Correct.

21 Q. Okay. Now, in all of these
22 places you had worked -- REMCO, Ulrich,
23 Worth, and any other places you had been
24 employed -- had you ever worked at a gas

1 station?

2 A. Like, did work at a gas
3 station?

4 Q. Did any type of plumbing work
5 at a gas station.

6 A. Yes.

7 Q. And at what employer did you
8 do work at gas stations before March of
9 2014?

10 A. REMCO.

11 Q. Okay. And how -- when you
12 were with REMCO, how often would you work
13 at a gas station?

14 A. Not very often.

15 Q. Now, you were at REMCO for
16 two different occasions; right?

17 A. Correct.

18 Q. On your first work time with
19 REMCO, did you work at any gas stations?

20 A. Yes.

21 Q. How many?

22 A. I don't know.

23 Q. What was the work that you
24 did at gas stations during your first

1 time of employment with REMCO?

2 A. Water heater replacement.

3 Q. Anything else?

4 A. Bursted waterlines.

5 Q. Okay. Anything else?

6 A. No.

7 Q. Do you know whether or not on
8 that -- during that first employment at
9 REMCO when you worked at gas stations,
10 whether you were exposed in any way to
11 any gasoline, oil, diesel, or any other
12 chemical compounds?

13 A. No.

14 Q. Okay. You don't know?

15 A. I don't know.

16 Q. Okay. When you worked at gas
17 stations during your first stint at
18 REMCO, did you ever find yourself working
19 in an excavation?

20 A. Yes.

21 Q. And when you worked in those
22 excavations, did you ever get wet from
23 water in the excavation or something else
24 in the excavation?

1 A. Yes.

2 Q. And how many times did that
3 occur during your first employment at
4 REMCO?

5 A. I don't know.

6 Q. Okay. Did anyone ever talk
7 to you at any time in your career about
8 being cautious with becoming wet or
9 having contact with liquids that are
10 underground? Generally. And I'll be
11 more specific in my next question.

12 A. If they had a safety concern,
13 we always had someone that was involved
14 in that area be there.

15 Q. Okay. And I appreciate that.
16 But I guess my -- my question is: You've
17 been doing this for about ten years. Let
18 me -- let me start again. Everyone needs
19 you to talk a little louder --

20 MR. HARRINGTON: Because --

21 (Counsel indicating.)

22 Q. (Continued) Yeah. The air
23 conditioner is running, so...

24 MR. LAMB: Are you getting

1 him on the video? Is that okay?

2 THE VIDEOGRAPHER: Yeah.

3 Q. (Continued) Okay. So, sorry.

4 You've just got to kind of -- I won't be

5 offended if you raise your voice. Sorry.

6 Since your early 20s, you've

7 been working as a plumber; right?

8 A. Correct.

9 Q. And for -- it looks like

10 three or four different companies; right?

11 A. Correct.

12 Q. Did anyone during those times

13 when you were working for those companies

14 say to you, educate you, teach you, or in

15 any way communicate to you when you're in

16 an excavation and there's liquid in the

17 excavation, you have to be careful about

18 coming into contact with it?

19 A. They would always tell

20 us someone would be there -- you wouldn't

21 be there if there was something wrong.

22 Like, if there was something hazardous,

23 you wouldn't be there.

24 Q. Who would tell you that?

1 A. The safety people.

2 Q. At the companies you worked
3 at?

4 A. Yes.

5 Q. Did the safety people at
6 REMCO tell you that?

7 A. They would tell us, we
8 wouldn't put you in harm's way.

9 Q. Okay. And do you
10 specifically remember someone at REMCO
11 telling you that?

12 A. They used to -- all the
13 managers would say that to you.

14 Q. Okay. And who are the
15 managers at REMCO that you remember
16 saying that to you?

17 A. Kevin Nace, Dan Pileggi, the
18 senior vice president of the company.

19 Q. Who is that?

20 A. Jai Hoover.

21 Q. And was that -- when -- when
22 you heard Jai Hoover say it, was that in
23 a conversation or in a class?

24 A. In a meeting.

1 Q. In a meeting. Okay.

2 Was that like an early
3 morning meeting before you were
4 dispatched or was that like a safety
5 meeting? What kind of meeting?

6 A. Like a monthly, how's
7 everybody doing, this is what we're doing
8 this month meeting.

9 Q. Okay. And you said Mr.
10 Pileggi also -- Mr. Pileggi was the one
11 who said those things?

12 A. Yes.

13 Q. Okay. Now, you also said Mr.
14 Nace had an occasion to say something
15 along those lines. Do you remember when
16 that was?

17 A. I don't remember.

18 Q. Do you remember what the
19 circumstances were where Mr. Nace said
20 that to you?

21 A. No.

22 Q. Do you remember what --
23 whether you were on-site or back at
24 REMCO's headquarters when he said that to

1 you?

2 A. I don't remember.

3 Q. Fair enough. And there was
4 one other person you said who had
5 expressed that to you and I -- I didn't
6 get to write down their name.

7 A. Jai Hoover.

8 Q. Jai Hoover.

9 And when did Mr. Hoover say
10 to you that, you know, we would not let
11 you work in an area that has issues?

12 A. In meetings.

13 Q. Okay. In safety meetings or
14 general meetings?

15 A. General meetings.

16 Q. Do you remember how many
17 times he said it?

18 A. I don't know.

19 Q. Was it more than once Mr.
20 Hoover said it?

21 A. Yes.

22 Q. How about Mr. Pileggi, did he
23 say it more than once?

24 A. Yes.

1 Q. How about Mr. Nace?

2 A. Yes.

3 Q. Did either Mr. Pileggi, Mr.
4 Nace, or Mr. Hoover tell you what they
5 would do to ensure that you were not
6 working around something that was
7 dangerous to you?

8 A. No.

9 Q. They never expressed that?

10 A. No.

11 Q. Did they tell you -- did
12 anyone at REMCO tell you that you had the
13 option that if you thought that you were
14 being exposed to something that was
15 dangerous that you could stop working?

16 A. Yes.

17 Q. And how many times did they
18 tell you that during your two times of
19 employment there?

20 A. I don't recall.

21 Q. Was that something you
22 understood, though, that if you were on a
23 job site and you were working and you
24 sensed there was something in the air,

1 something in the ground, something in the
2 water, or something you were being
3 exposed to that was hazardous, that you
4 could stop working and leave the site if
5 necessary?

6 A. Yes.

7 Q. Okay. Was that part of the
8 training that REMCO gave you?

9 A. Yes.

10 Q. Okay. When you started with
11 Worth at the beginning of your -- your
12 plumbing career, did you have any safety
13 classes?

14 A. (No verbal response.)

15 Q. Maybe that's a bad question.
16 When you started with Worth,
17 did they provide any safety training for
18 you?

19 A. Yes.

20 Q. And was it an OSHA-approved
21 training or could you tell what type of
22 training it was?

23 A. I don't know.

24 Q. Was it on video or in person

1 or both?

2 A. I don't remember.

3 Q. Did they give you any books
4 or training manuals?

5 A. I don't remember.

6 Q. Okay. All right. We have to
7 ask these questions. And you can say you
8 don't remember. Sometimes we'll get a
9 whole series of those, but I need to find
10 out the -- the depth of your memory.
11 Okay?

12 A. All right.

13 Q. So at Worth, do you -- do you
14 have any of the documents still in your
15 possession from Worth?

16 A. No.

17 Q. All right. So you don't have
18 any of your employment stuff or training
19 stuff or anything like that?

20 A. No.

21 Q. During the training at Worth,
22 did anyone talk to you about exposure to
23 chemicals?

24 A. Not that I remember.

1 Q. Okay. Did anyone talk to you
2 at Worth about exposure specifically to
3 gasoline or diesel fuel?

4 A. Not that I remember.

5 Q. Okay. At Worth & Company,
6 what powered tools would you have used
7 yourself?

8 A. Power tools?

9 Q. Yeah.

10 A. Like, what do you mean, power
11 tools?

12 Q. Like anything from a power
13 drill to, you know, a concrete cutter
14 to -- to anything. Tell me what you
15 would use at Worth when you were the
16 apprentice kind of function.

17 A. A drill, a chop saw. That's
18 about it.

19 Q. When you were the apprentice.

20 A. Yes.

21 Q. Chop saw, do you mean like a
22 miter saw?

23 A. Yes.

24 Q. Okay. And that was electric,

1 I assume?

2 A. Yes.

3 Q. And was that to cut pipe?

4 A. Yes.

5 Q. So when you were the
6 apprentice at Worth, did you cut the PVC
7 pipe?

8 A. Yes.

9 Q. Did you cut the copper pipe?

10 A. Yes.

11 Q. And would you also cut the
12 cast iron?

13 A. Yes.

14 Q. Okay. So in terms of your
15 job, not -- you didn't just do the drops.
16 You would also -- the -- the journey
17 person, plumber would tell you, hey, I
18 need 66 inches of this PVC and you would
19 go cut it for them?

20 A. Yes.

21 Q. And bring it to them?

22 A. Yes.

23 Q. Now, would anyone have to mix
24 up the glue or the primer that was done

1 for the PVC?

2 A. No.

3 Q. It came premixed?

4 A. Yes.

5 Q. Whose responsibility was it
6 to apply it to the pipes when you were an
7 apprentice at Worth?

8 A. The mechanic.

9 Q. Okay. Were you present when
10 they would do it?

11 A. Sometimes.

12 Q. Okay. And when you were at
13 Worth, did they have any gasoline-powered
14 tools on-site?

15 A. Yes.

16 Q. What gasoline-powered tools
17 would they have?

18 A. Chop saw.

19 Q. Okay. So the chop saw --
20 I -- I thought the chop saw that you were
21 talking about was a -- was a miter saw
22 where you would put the pipe on it and
23 you would start it up and pull it down?

24 A. Yeah. We had one like that,

1 too, that was electric and one that was
2 gas.

3 Q. Oh, okay. I've never seen a
4 gas one. Okay. All right. So there was
5 a gasoline-powered one.

6 A. Yes.

7 Q. Who would fill that up with
8 gasoline when it needed to be refilled?

9 A. Whoever was using it when it
10 ran out.

11 Q. Okay. So would that be you
12 on occasion?

13 A. Every now and then.

14 Q. Okay. What brand name was
15 that gasoline-powered miter saw?

16 A. I don't know.

17 Q. Okay. Have you seen those
18 since?

19 A. (No verbal response.)

20 Q. Gasoline-powered ones?

21 A. Yeah.

22 Q. Did they have a -- did they
23 have a concrete saw at -- at Worth &
24 Company?

1 A. We didn't do concrete
2 cutting.

3 Q. You didn't.

4 A. No.

5 Q. Okay. You'd hire a sub to do
6 that?

7 A. Yeah.

8 Q. Any other gasoline-powered
9 tools on-site when you were an apprentice
10 at Worth & Company other than the chop
11 saw?

12 A. Not that I remember.

13 Q. What about pumps? Did you
14 have to run gasoline-powered pumps when
15 you were at Worth & Company?

16 A. Not that I remember.

17 MR. LAMB: Do you need to
18 take a break? You all right?

19 THE COURT REPORTER: I'm all
20 right.

21 Q. When you would move -- at
22 Worth & Company, when you moved to become
23 more of a journeyman and you were out of
24 that apprentice stage for your last two

1 years, did you start using any tools that
2 were gas powered other than the chop saw?

3 A. We didn't use many
4 gas-powered tools.

5 Q. Okay. When you moved on,
6 your next employment then was with
7 Urlich; right?

8 A. Yes.

9 Q. And when you moved on to
10 Urlich, did you use any gasoline-powered
11 tools?

12 A. Every now and then.

13 Q. And what would you use?

14 A. The chop.

15 Q. Okay.

16 A. Chop saw.

17 Q. Gasoline-powered chop saw?

18 A. Yes.

19 Q. Was that mounted on a -- you
20 know, on a horse or something or --

21 A. No.

22 Q. How was that --

23 A. It's freestanding.

24 Q. Freestanding.

1 Not portable. You wouldn't
2 pick it up with your hands; right?

3 A. Yes.

4 Q. Oh. You would?

5 A. Yes.

6 Q. Okay. And could you -- what
7 would you -- how would you cut the pipe?
8 Would you put it in some kind of --
9 between two bricks or something or how
10 would you do it?

11 A. Yeah.

12 Q. Okay. So you could literally
13 pick up a chop saw and chop right through
14 it.

15 A. Yes.

16 Q. Okay. Did you use any
17 gasoline-powered pumps at Urlich?

18 A. No.

19 Q. When you moved on to REMCO,
20 were there any other gasoline or -- you
21 know, when I say gasoline powered, I'm
22 including diesel or a gasoline/oil
23 mixture. You know, one cycle, two cycle,
24 however you want to define it. Okay?

1 A. All right.

2 Q. All right. So when you moved
3 on to REMCO the first and second times
4 you were there, did you use any
5 gasoline-powered tools?

6 A. Yes.

7 Q. And what were those?

8 A. A pump.

9 Q. Okay.

10 A. And a backhoe.

11 Q. How about a skid steer?

12 A. Yes.

13 Q. The skid steer, is that
14 gasoline or diesel?

15 A. Diesel.

16 Q. How about the backhoe?

17 A. Diesel.

18 Q. And the pump?

19 A. Gas.

20 Q. Did you keep a
21 gasoline-powered pump in your truck when
22 you worked for REMCO?

23 A. No.

24 Q. Were you an operator such

1 that you could operate the backhoe and
2 the skid steer?

3 A. Yes.

4 Q. And did you do that?

5 A. Yes.

6 Q. So were there jobs where you
7 would bring in the -- the backhoe and the
8 skid steer from REMCO's yard?

9 A. Yes.

10 Q. And as part of bringing in
11 the backhoe and skid steer to a
12 particular job site from REMCO's yard,
13 would you have to make sure that they
14 were fueled up in the morning?

15 A. Yes.

16 Q. And did REMCO have a gasoline
17 pump on-site that you could use or some
18 type of gasoline containers?

19 A. No.

20 Q. How would you get the skid
21 steer or backhoe gassed up in the
22 morning?

23 A. Stop at a gas station.

24 Q. Okay. All right. And then

1 they -- would they be up on a -- on a
2 trailer?

3 A. Yes.

4 Q. So you would bring the diesel
5 pump handle up on the trailer and then
6 fill them up?

7 A. Correct.

8 Q. Okay. All right. When you
9 would do that, when you would fill up the
10 backhoe and the skid steer, did you ever
11 get gasoline on your hands or on -- on
12 you as you were doing it?

13 A. No.

14 Q. Did you ever smell the
15 gasoline as you were pumping it in?

16 A. Yeah.

17 Q. Okay. Right. I mean, you --
18 you're pumping the gas and it kind of
19 comes back on you a little bit and you
20 smell it sometimes?

21 A. Yes.

22 Q. Okay. Same thing with the
23 diesel. Could you smell that?

24 A. Yes.

1 Q. The homes you lived in, how
2 were they heated?

3 A. I don't remember.

4 Q. Did any of the homes that
5 you've lived in, including the home you
6 live in right now on Diamond Street, are
7 any of them heated by oil heat?

8 A. The Maxatawny house was.

9 Q. How about your current home?
10 How is that heated?

11 A. Electric.

12 Q. Did you ever have to prime
13 the heater in the Maxatawny house?

14 A. No.

15 Q. Did you ever do any work on
16 the heater in the Maxatawny house?

17 A. No.

18 Q. Okay. Did you ever get
19 involved with the oil delivery on the
20 Maxatawny house?

21 A. No.

22 Q. The house you grew up in, how
23 was that heated?

24 A. Electric.

1 Q. During your work at gas
2 stations for REMCO during your first time
3 at REMCO and your second time at REMCO,
4 other than the incident we're here for
5 today at the Pilot, were you ever exposed
6 to any gasoline or diesel or oil or other
7 chemicals that you know of?

8 A. No.

9 Q. Were you trained when you got
10 to Urlich? Did they provide training for
11 you?

12 A. Yes.

13 Q. And what was the -- what was
14 that training?

15 A. Safety.

16 Q. Do you remember whether it
17 was a book, a DVD, classrooms, or a
18 combination?

19 A. I don't remember.

20 Q. Do you have any of the
21 materials still from Urlich?

22 A. No.

23 Q. During that training at
24 Urlich, did anyone talk to you about

1 exposure to chemicals or liquids or fumes
2 or anything on job sites?

3 A. No. 'Cause it was all new
4 construction.

5 Q. Okay. Do you have any -- do
6 you have any OSHA certifications?

7 A. Like?

8 Q. The OSHA 10-hour, the OSHA
9 40-hour?

10 A. If anything, REMCO would have
11 that.

12 Q. You have to talk --

13 A. If anything, REMCO would have
14 that.

15 Q. Do you know if you -- if you
16 went through any OSHA 10-hour or 30-hour
17 or 40-hour classes?

18 A. Not that I remember.

19 Q. Do you have any safety
20 certifications at all that you know of?

21 A. We would go through them at
22 REMCO and they would keep them on file.

23 Q. Okay. But you don't know?

24 A. I don't know.

1 Q. The first time you started
2 employment at REMCO, did you -- did you
3 receive training?

4 A. Yes.

5 Q. And do you remember that
6 training?

7 A. Yeah.

8 Q. Did you receive training the
9 second time you started with REMCO?

10 A. Yes.

11 Q. Same training again or was it
12 different?

13 A. I'm not exactly sure.

14 Q. What do you remember from the
15 first training you received from REMCO?

16 A. The first time?

17 Q. Yes.

18 A. Forklift safety, ladder
19 safety.

20 Q. Anything else?

21 A. Hazardous, like stuff for
22 spills and stuff.

23 Q. You got to -- I'm sorry. You
24 have to speak up.

1 A. For spills. Like if you
2 spilled something.

3 Q. So was that training for
4 hazardous substances?

5 A. Like, yeah, if you spilled
6 something, cone it off, call somebody.

7 Q. Okay. And did they define to
8 you what a hazardous substance was during
9 that training?

10 A. Not that I remember.

11 Q. Okay. Did they define to you
12 whether or not, you know, gasoline or
13 diesel would be a hazardous substance?

14 A. Not that I remember.

15 Q. Did you consider -- when --
16 when you were working for REMCO your
17 first time, did you consider gasoline or
18 diesel fuel to be a hazardous substance?

19 MR. LYNAM: Objection to the
20 form.

21 You can answer.

22 THE WITNESS: (Witness
23 indicating.)

24 MR. LYNAM: You can answer.

1 A. I didn't think it was
2 hazardous.

3 Q. Okay. So the first time --
4 during your first time you were working
5 at REMCO, did you feel that it was safe
6 that you could have gasoline on your
7 hands and it wouldn't have any effect on
8 you?

9 A. I wouldn't think it -- I
10 wouldn't have put it on my hands.

11 Q. No. But that's not -- that's
12 not my question. If -- you know, if
13 you're filling up a machine or something,
14 you're filling up the skid steer or
15 you're filling up some other machine, the
16 pump or whatever, that takes gasoline and
17 you got gasoline on your hands while you
18 were doing it -- well, during your first
19 time at REMCO, did you consider that to
20 be something that was dangerous to you?

21 A. No. 'Cause I would always
22 wear gloves when we filled up the
23 machine.

24 Q. Okay. So are you saying that

1 during your first time at REMCO, all the
2 times you filled up machines of any sort
3 with gasoline, you never spilled any on
4 yourself?

5 A. No.

6 Q. You never did?

7 A. No.

8 Q. Okay. How about in your
9 life, all the lawns you cut, all the
10 times you cut lawns? Did you ever spill
11 any gasoline on yourself that you recall?

12 A. I don't remember --

13 MR. LYNAM: Object to the
14 form.

15 But go ahead.

16 A. (Continued) I don't recall.

17 Q. You don't recall if you did
18 or you didn't?

19 A. I don't know.

20 Q. So did you consider -- during
21 your first time with REMCO when you first
22 worked with them, did you consider
23 whether or not -- let me start again.

24 During the first time you

1 worked with REMCO, did you consider
2 diesel fuel to be a hazardous substance?

3 MR. LYNAM: Objection to the
4 form.

5 You can answer.

6 A. I never really considered it.

7 Q. Okay. During your first time
8 with REMCO, had you ever read any -- any
9 type of document or anything that
10 indicated that diesel fuel or gasoline
11 could be a hazardous substance?

12 A. On the pump where you pump
13 it.

14 Q. Okay. And what do you recall
15 those saying?

16 A. It can cause explosion.

17 Q. Okay. Do you recall whether
18 they indicated at all whether there could
19 be any health effects from exposure to
20 diesel or gasoline?

21 A. I don't remember what it --

22 Q. Okay. So during your first
23 time at REMCO, you did not consider
24 exposure to diesel or gasoline to be a

1 safety issue. Am I right or wrong?

2 A. Well, it was a safety issue.

3 Q. In terms of?

4 A. You didn't want it on you.

5 Q. And why not?

6 A. 'Cause it was a chemical.

7 Q. And what could it do to you,
8 did you know?

9 A. I don't know.

10 Q. But you didn't want chemicals
11 on you.

12 A. No.

13 Q. Now, had you ever been in a
14 situation during your first time with
15 REMCO where you were exposed to any
16 chemicals? Personally exposed, meaning
17 you were somewhere where you were exposed
18 to a chemical, whether it was in the air,
19 in the soil, in a fluid form? Do you
20 recall that?

21 MR. LYNAM: So when you say
22 exposed, do you mean that he -- he
23 breathed it in or he touched it
24 or --

1 MR. LAMB: I'll -- I'll --
2 yeah. I'll clarify.

3 Q. (Continued) Do you ever
4 recall during your first time with REMCO
5 being in a situation where there was a
6 chemical as you describe it in a liquid
7 form, in a vapor or air form or in soil
8 or in any other form near you while you
9 were working?

10 A. You would have the primer and
11 glue every now and then.

12 Q. Okay. Other than that -- and
13 I don't mean the -- the -- I appreciate
14 that. That's a good point. But what I'm
15 saying is -- let me be more specific.

16 Do you ever recall a time
17 during your first employment with REMCO
18 when you were around what you would
19 consider to be a chemical --

20 A. Not that I recall.

21 Q. Just let me finish. I'll
22 start the question over.

23 Do you ever recall a time
24 during your first employment with REMCO

1 when you were exposed to a chemical that
2 was not a chemical you were using in your
3 plumbing processes?

4 A. No.

5 Q. Okay. So are we -- am I to
6 understand then that during your first
7 time of employment with REMCO, you never
8 had to stop work because of the presence
9 of some chemical in the area?

10 A. Correct.

11 MR. LAMB: All right. Let's
12 take a break. We're running out of
13 tape.

14 THE VIDEOGRAPHER: Now going
15 off the record. The time is 11:04.

16 - - -

17 (Whereupon, a brief recess
18 was taken.)

19 - - -

20 THE VIDEOGRAPHER: Now back
21 on the record. The time is 11:07
22 a.m.

23 BY MR. LAMB:

24 Q. Why did you leave your

1 employment with REMCO the first time?

2 A. I thought I had better
3 options.

4 Q. And where did you go?

5 A. Elek.

6 Q. (Counsel indicating.)

7 A. Elek.

8 Q. Could you spell that, please?

9 A. E-L-E-K.

10 Q. And how long did you -- when
11 you said better options, what do you mean
12 by better options?

13 A. More pay.

14 Q. Okay. And how long were you
15 with Elek?

16 A. A year.

17 Q. And why did you leave there?

18 A. Just wasn't what I thought it
19 was.

20 Q. What do you mean?

21 A. Wasn't employment -- what I
22 wanted to do.

23 Q. What did do you at Elek?

24 A. Service.

1 Q. And what did Elek basically
2 service? What type of businesses?

3 A. Residential, commercial.

4 Q. Did Elek service any gas
5 stations?

6 A. No.

7 Q. Did you service any chemical
8 plants?

9 A. No.

10 Q. Did you service anywhere
11 that -- that there were chemicals or
12 substances like that when you worked with
13 Elek?

14 A. No.

15 Q. Who owns Elek, do you know?

16 A. I forget his name.

17 Q. All right. And then you went
18 back to REMCO?

19 A. Yes.

20 Q. So when you returned to the
21 REMCO for the second time, you had to
22 undergo training again.

23 A. Yes.

24 Q. And was that 2013; right?

1 A. I don't recall exactly.

2 Q. Well, was it the year before
3 you worked at the Pilot that you went
4 back to REMCO?

5 A. Yes.

6 Q. And we know the work you did
7 at the Pilot was in 2014?

8 A. Yes.

9 Q. So -- okay. And when you
10 went back to REMCO, what was your
11 position?

12 A. Plumber. Service plumber.

13 Q. And you went through all the
14 training again?

15 A. Yes.

16 Q. There was an interesting
17 reference in some of the records.
18 Someone said that you drink a lot of
19 Pepsi. Or you used to drink a lot of
20 Pepsi?

21 A. Correct.

22 Q. So tell me -- tell me how
23 much Pepsi you used to drink. Do you
24 still drink it?

1 A. No.

2 Q. Why not?

3 A. I can't.

4 Q. Why not?

5 A. 'Cause of my kidney failure.

6 Q. Okay. Tell me -- explain to
7 me what -- why that it is that you can't
8 drink Pepsi.

9 A. Soda has phosphorus in it and
10 your kidneys break down the phosphorus
11 and take it to your -- your urine. My
12 kidneys no longer do that.

13 Q. Okay. When did you start
14 drinking Pepsi?

15 A. Teenager, maybe.

16 Q. Okay. I got the
17 impression -- someone -- I don't know if
18 it was in a record or a prior deposition.
19 Someone said you drank Pepsi like every
20 day.

21 A. Yes.

22 Q. Okay. How much would you
23 drink in your 20s, say? How -- how much
24 Pepsi would you drink each day?

1 A. I don't recall. I don't --

2 Q. Would you stop and get, you
3 know, Pepsis -- would you drink Coke ever
4 or just Pepsi?

5 A. What -- Coke, Pepsi, Sprite.

6 Q. Okay. Did you drink coffee
7 in the morning or would you drink Pepsi?

8 A. Pepsi.

9 Q. Okay. So you were like me.
10 You didn't drink coffee. You drank
11 diet -- or soda or diet soda to get that
12 caffeine kick?

13 A. Yes.

14 Q. Okay. And did you ever drink
15 diet or would you always drink regular?

16 A. Just regular.

17 Q. All right. And so you would
18 start the morning out by getting a Pepsi.
19 Would it be a fountain or would you grab
20 a can from your fridge or a bottle from
21 your fridge? How would you --

22 A. A bottle.

23 Q. From your fridge?

24 A. From Wawa.

1 Q. Okay. 12 ounce? 24 ounce?
2 What size?

3 A. 24 ounce. Whatever I
4 grabbed.

5 Q. And what would you do at --
6 would you get another one at lunchtime?

7 A. Yes.

8 Q. And what size?

9 A. Whatever was in the cooler at
10 the Wawa or whatever station I went to.

11 Q. Okay. And then would you
12 drink more after lunch on a typical day?

13 A. Sometimes.

14 Q. Would you have Pepsi with
15 dinner?

16 A. Sometimes.

17 Q. And did you keep, like,
18 2-liter bottles of it at home or how
19 would you drink it at home?

20 A. I would just buy one from the
21 store, like a 20 ounce or whatever.

22 Q. Okay. And bring it home with
23 you?

24 A. Yes.

1 Q. But I mean, did you ever --
2 when you would do the food shopping or
3 when your wife would do the food
4 shopping, would you buy it then too?

5 A. Yes.

6 Q. Okay. Were you ever
7 diagnosed with diabetes?

8 A. No.

9 Q. Never?

10 A. Never.

11 Q. Do your parents -- what's
12 your parents' health like?

13 A. Perfect.

14 Q. The -- neither one has
15 diabetes?

16 A. No.

17 Q. Did either one of your
18 parents ever have any kidney issues?

19 A. No.

20 Q. Did any doctor -- well, let
21 me -- did you ever discuss with any
22 doctor any link between your kidney
23 issues and drinking all that Pepsi?

24 A. No.

1 Q. No doctor suggested that
2 could be a cause.

3 A. No.

4 Q. Did you ever tell the doctor
5 how much Pepsi you drank?

6 A. Yes.

7 Q. Okay. Did you -- do you
8 drink alcohol now?

9 A. On occasion.

10 Q. And how about before your
11 work in March 2014 at Pilot? Were you --
12 did you drink alcohol?

13 A. On occasion.

14 Q. And what does that mean for
15 you, on occasion?

16 A. Every now and then. Like
17 when we'd go out to eat maybe.

18 Q. Okay. All right. You would
19 not have a drink each night or anything
20 like that.

21 A. No.

22 Q. Okay. Other than the Pepsi,
23 was there any other food or beverage or
24 anything that you would consume every day

1 that you kind of regularly consumed?

2 A. Water.

3 Q. Okay. I mean, we all drink
4 water. Did you drink a lot of water?

5 A. No.

6 Q. Okay. Prior to 2014, did you
7 ever have any kidney issues?

8 A. No.

9 Q. Okay. At any time in your
10 life, had you had any kidney issues
11 before 2014?

12 A. Not that... not that I was
13 aware of anything.

14 Q. Okay. Did you have any other
15 physical issues or physical problems
16 before March of 2014 other than your
17 broken foot?

18 A. No.

19 Q. Were you exercising regularly
20 in 2013?

21 A. I was working. I wasn't,
22 like, working out at a gym or anything.

23 Q. Well, that's what I was
24 asking. Did you go to a gym?

1 A. No.

2 Q. Okay. And how much did you
3 weigh in 2013?

4 A. (No verbal response.)

5 Q. About the same that you weigh
6 now?

7 A. No.

8 Q. More?

9 A. Yes.

10 Q. How much more?

11 A. Right now, I was about 20
12 pounds more.

13 Q. And how much do you weigh
14 right now?

15 A. 143.

16 Q. So you were about 163?

17 A. Yeah.

18 Q. I see you have tattoos --

19 A. Correct.

20 Q. -- on your hands.

21 When did you start getting
22 tattoos?

23 A. When I was 18.

24 Q. Okay. And when's the last

1 time you got a tattoo?

2 A. I don't remember what year it
3 was.

4 Q. Okay. Was it within the last
5 five years?

6 A. Yes.

7 Q. Within the last three years?

8 A. No.

9 Q. All right. How many tattoos
10 would you say you have or how -- just
11 describe to me how much of your body is
12 covered in tattoos.

13 A. My arm.

14 Q. Your arm.

15 Right arm?

16 A. Yes.

17 Q. How about your left arm?

18 A. No.

19 Q. Okay. And they're only on
20 your right arm?

21 A. No.

22 Q. Where else?

23 A. My back.

24 Q. Okay. How much of your back

1 is covered?

2 A. Just my shoulder.

3 Q. And did you always get them
4 done at the same place?

5 A. No.

6 Q. Where would you -- where --
7 where have you gotten them done at?

8 A. The majority of them were
9 done at the same place.

10 Q. And what's the name of that?

11 A. Zimar's.

12 Q. (Counsel indicating.)

13 A. Zimar's.

14 Q. Are they still in business?

15 A. I think.

16 Q. And where are they at?

17 A. Kutztown.

18 Q. Where did you get the other
19 ones?

20 A. I forget the name of it.
21 Pappy's Place.

22 Q. Did you ever get any when you
23 were out of the country?

24 A. No.

1 Q. Have you been out of the
2 country in the last five years?

3 A. No.

4 Q. Are your children healthy?

5 A. Yes.

6 Q. Any problems -- no problems
7 with them?

8 A. No problems.

9 Q. Any -- do you have brothers
10 and sisters?

11 A. Yes.

12 Q. And how many brothers and
13 sisters?

14 A. One brother.

15 Q. Where does he live?

16 A. At my parents' house.

17 Q. How old is he?

18 A. 35, 36.

19 Q. And what's his name?

20 A. Tommy.

21 Q. Marino?

22 A. Yes.

23 Q. And is he healthy?

24 A. He's handicapped.

1 Q. Okay. And -- and what type
2 of handicap?

3 A. He was choked when he was
4 born by the umbilical cord.

5 Q. Okay. So is he mentally
6 handicapped in some fashion?

7 A. Yes.

8 Q. Okay. How about his physical
9 health?

10 A. (No verbal response.)

11 Q. Is he physically healthy?

12 A. Yeah.

13 Q. Okay. You know, his body
14 constitution, the whole thing --

15 A. Yeah. It's fine.

16 Q. Okay. Has any doctor told
17 you that your kidney condition is related
18 to work you did at REMCO?

19 A. Meaning?

20 Q. Meaning have you spoken with
21 any doctor who has said to you your
22 kidney condition that you have right now
23 is related to work you did at REMCO?

24 A. I had some doctor, yes.

1 Q. Who was that?

2 A. It was the -- in the
3 hospital.

4 Q. Which hospital?

5 A. St. Luke's.

6 Q. Okay. When was that?

7 A. When I was in the hospital.

8 Q. Yeah. Was it in April or May
9 when you were in the hospital --

10 A. May.

11 Q. I'm just trying to get an
12 idea of what -- when that was. That was
13 in May --

14 A. May.

15 Q. And who -- do you know who
16 the doctor was or what type of doctor
17 they were?

18 A. I don't remember.

19 Q. Was it in a meeting or was it
20 something they said in the room to you
21 just while they were talking to you about
22 other stuff or was this a diagnosis they
23 gave you? Explain to me what happened.

24 A. I don't remember much from

1 the hospital.

2 Q. Okay. Tell me what you
3 remember about this, though.

4 A. I just remember them saying
5 that it looks like you were exposed to
6 something.

7 Q. All right. And was it a male
8 or female doctor?

9 A. A male.

10 Q. White or black or Asian or
11 what race?

12 A. I don't remember.

13 Q. Were you awake when it was
14 said? Like were you as with it as you --

15 MR. LYNAM: I'm going to
16 object to the form.

17 Q. -- are now or what -- were
18 you, you know, under the effects of some
19 type of medication? What kind -- what
20 was your medical state?

21 MR. LYNAM: Object to the
22 form. I -- I don't understand how
23 he could possibly answer that
24 because if his mental state was

1 impaired, how's he going to -- I --
2 it makes no sense.

3 MR. LAMB: Well, I mean, you
4 can hear stuff when you're not
5 totally conscious is what I am
6 saying. I mean, like, if you're
7 coming out of surgery or
8 something --

9 MR. LYNAM: I don't -- I
10 don't understand how you want him
11 to assess his state because if --
12 if there was something --

13 MR. LAMB: Because he --

14 MR. LYNAM: -- wrong with his
15 mental state, he would not be in a
16 position to be able to make that
17 assessment.

18 MR. LAMB: If you -- if you
19 have a couple beers, you know your
20 assessments.

21 MR. LYNAM: If you can answer
22 it...

23 BY MR. LAMB:

24 Q. Yeah. So what I'm asking is:

1 When you heard that, do you know
2 whether -- what mental state you were in,
3 how conscious you were or anything like
4 that?

5 A. I don't remember.

6 Q. Okay. Did you respond to it
7 when they said it to you?

8 A. I don't remember.

9 Q. Okay. Did you ever -- when
10 you were admitted -- or when you saw
11 doctors in April and May, June, July,
12 August of 2014, did you say to any of
13 them, I was exposed to something or -- at
14 any time? Did you ever tell any of the
15 doctors that?

16 A. I told them about a job that
17 I was on.

18 Q. Which job?

19 A. The Pilot job.

20 Q. And what did you tell them?

21 A. That we were doing a dig
22 there. But that was the only thing.

23 Q. Did you tell them that you
24 were exposed to some chemical?

1 A. No.

2 Q. Did they ask you anything
3 about that?

4 A. No.

5 Q. Did you ever, you know, from
6 March until now, last March until now,
7 ever provide any doctors with any
8 information about the work you were
9 doing?

10 A. I just told them I was a
11 plumber.

12 Q. Okay. Did you ever tell any
13 doctors who were treating you that you
14 thought you were exposed to chemicals?

15 A. Not that I thought I was, no.

16 Q. Okay. And other than that
17 one indication that you just gave me
18 about a doctor saying something, has any
19 doctor sat you down and said, this is why
20 you're having kidney problems?

21 A. I haven't really -- I haven't
22 been really going on that. I've been
23 just doing the dialysis.

24 Q. Do you have a nephrologist

1 you treat with?

2 A. Yes.

3 Q. A kidney doctor?

4 Who's that?

5 A. Dr. Lipson.

6 Q. And how often do you see Dr.
7 Lipson?

8 A. Whenever she shows up at
9 dialysis.

10 Q. Okay. I guess how often do
11 you have appointments to see her?

12 A. I don't have appointments.

13 Q. You don't have appointments
14 to see her.

15 A. No.

16 Q. When she shows up at dialysis
17 as you've put it, do you have a chance to
18 talk to her?

19 A. If you want to.

20 Q. Okay. And have you taken
21 those opportunities over the last year to
22 talk to her?

23 A. When I was new to dialysis.

24 Q. Okay. Have you ever asked

1 her why this happened?

2 A. Yeah.

3 Q. And when was that? When did
4 you ask her?

5 A. Right in the beginning.

6 Q. And was that part of a
7 meeting you were having with her?

8 A. No.

9 Q. Where would -- where did that
10 conversation take place?

11 A. I was sitting in a dialysis
12 chair --

13 Q. Okay.

14 A. -- and she came in.

15 Q. And she greeted you, I guess;
16 right?

17 A. Yes.

18 Q. You greeted her.

19 A. Correct.

20 Q. And then did you have a
21 conversation or was that the first
22 question you asked?

23 A. No. We had a conversation.

24 Q. Okay. And when you -- did

1 you -- what were -- what was your
2 question that you asked her?

3 A. Why did this happen.

4 Q. And what did she say?

5 A. And she looked at my files.

6 Q. Did she answer your question?

7 A. Yes.

8 Q. And what did she say?

9 A. She said you were exposed to
10 something.

11 Q. Did she say when you were
12 exposed to something?

13 A. No.

14 Q. Did you suggest to her when
15 you were exposed to something?

16 A. No.

17 Q. So that's all she said, you
18 were exposed to something?

19 A. Yes.

20 Q. To you, did that mean -- did
21 you -- she give you any indication as to
22 when you were exposed to that something
23 or what it was or anything?

24 A. No.

1 Q. And that was the end of the
2 conversation?

3 A. Well, she went on about my
4 levels and stuff like that.

5 Q. Your -- what levels?

6 A. My adequacy and the general
7 dialysis stuff.

8 Q. Okay. Did you ask her any
9 follow-up questions about why this
10 happened?

11 A. No.

12 Q. Have you spoken to any other
13 doctor about why your kidneys are in the
14 shape they're in and why -- why -- why
15 you've had kidney issues?

16 A. Not that I can remember.

17 Q. Okay. Did you agree with Dr.
18 Lipson when she said that you were
19 exposed to something or disagree?

20 MR. LYNAM: Objection to
21 form.

22 Q. (Continued) Like when she
23 said you were exposed to something, did
24 that make sense to you?

1 A. Well, yeah.

2 Q. Okay. And what do you
3 believe it was that you were exposed to?

4 A. I didn't know at the time.

5 Q. Okay. Do you know now?

6 A. Yes.

7 Q. And how do you know now?

8 MR. LYNAM: He's not
9 answering that question. Well,
10 let -- let me say it this way --

11 Q. I don't want to talk to you
12 about anything that your attorneys have
13 talked --

14 MR. LYNAM: Anything that --

15 Q. -- to you about, that's
16 confidential.

17 MR. LYNAM: Anything that we
18 talk about is -- is not what he's
19 asking. He's not trying to get
20 that out of you.

21 MR. LAMB: No.

22 MR. LYNAM: Anything that
23 we've discussed regarding anything
24 at all. Okay? He's asking for a

1 source outside of our conversations
2 or anything we've done, that Lenny
3 and I have done regarding the
4 medical stuff.

5 THE WITNESS: All right.

6 MR. LYNAM: So if you know
7 from another source, you can tell
8 him.

9 MR. LAMB: I forget the --
10 can you scroll back to the
11 question?

12 - - -

13 (Whereupon, the pertinent
14 portion of the record was read.)

15 - - -

16 BY MR. LAMB:

17 Q. So without revealing anything
18 that your attorneys have told you, do you
19 have any independent knowledge of what
20 you were exposed to?

21 A. No.

22 Q. Before you got to REMCO, the
23 first time you worked at REMCO, had you
24 ever worn rubber boots to do any plumbing

1 work or construction work or anything?

2 A. No.

3 Q. When you worked at REMCO
4 during your first time there, did you
5 wear rubber boots ever on a -- on a job
6 site?

7 A. Not that I remember.

8 Q. Did you ever wear waders on a
9 job site?

10 A. Not that I remember.

11 Q. Did you own a pair of rubber
12 boots? Kind of like boots you would put
13 on over your work boots or boots you
14 would put on if you were going to be
15 exposed to, like, a wet area or something
16 like that?

17 A. For concrete.

18 Q. Okay. You had a pair of
19 concrete boots?

20 A. Yes.

21 Q. And describe them to me if
22 you would.

23 A. They slide over your boots
24 and they're about that high up off your

1 boot -- (Witness indicating).

2 Q. Okay. When -- and different
3 people wear different height boots.

4 A. Yes.

5 Q. So let me ask that. What
6 height boot did you typically wear --

7 A. Over the ankle.

8 Q. So like an 8-inch or a
9 10-inch?

10 A. Roughly.

11 Q. Okay. And these would go a
12 couple inches above your regular work
13 boot?

14 A. Correct.

15 Q. So did you keep those in your
16 truck with you when you worked at REMCO?

17 A. No.

18 Q. Where did you keep them?

19 A. In my garage.

20 Q. Okay. Your -- during your
21 first time with REMCO, had you ever gone
22 to a job where there was water or some
23 other liquid present in the area where
24 you had to work?

1 A. What do you mean, liquid?

2 Q. Sure. Any type -- I mean,

3 I -- I don't want to just say water

4 because maybe, you know, it's muddy water

5 or some other type of water. So I'm

6 trying to be as broad as possible.

7 So what I'm saying is, during

8 your first time you worked with REMCO,

9 did you ever get to a place to work

10 where, you know, maybe it's a basement

11 and there's a lot of water standing in

12 the basement or maybe it's a -- it's a

13 hole that was dug and there was water in

14 the hole. Did you ever encounter those

15 circumstances?

16 A. Yes.

17 Q. So what would you do in those

18 circumstances to keep yourself dry?

19 A. Pump the water out.

20 Q. Okay. And what if you -- you

21 know, what if even after you pumped the

22 water out, there was still some mud or

23 some water around? What would you do to

24 keep yourself dry?

1 A. You dealt with it.

2 Q. Okay. What do you mean, you
3 dealt with it?

4 A. You pumped as much water out
5 as possible and you had to get in there
6 and fix it.

7 Q. Okay. And did other plumbers
8 you worked with at REMCO have rubber
9 boots that they would wear or --

10 A. Some did. Some didn't.

11 Q. Okay. Did other plumbers you
12 worked with at REMCO have waders that
13 they would wear?

14 A. Never seen anybody wear
15 waders.

16 Q. Okay. You know what waders
17 are; right?

18 A. Yes.

19 Q. Okay. And did you ever ask
20 REMCO if you could have, like, rubber
21 boots to wear on a job site?

22 A. If we needed them.

23 Q. So as I understand it, at the
24 time that you were working at Pilot, the

1 weather was March?

2 A. Correct.

3 Q. It was cold; right?

4 A. Correct.

5 Q. I think it was in the 30s.

6 A. Yes.

7 Q. And at some point, you are
8 alleging that your work clothes got
9 wet --

10 A. Correct.

11 Q. -- right?

12 So I guess my question is:
13 Why didn't you make some provisions so
14 that your work clothes didn't have to get
15 wet on that job site?

16 A. 'Cause you just did the job.

17 Q. But I don't understand. Was
18 there -- was there a way when you were
19 there at that job site that you could
20 have avoided getting wet?

21 A. Not really.

22 Q. What made -- how did you
23 get -- why did you get wet when you were
24 working at Pilot?

1 A. When I went in the pit.

2 Q. Okay. And what day was that
3 that you got wet?

4 A. I don't remember the exact
5 day.

6 Q. Okay. Well, we have it that
7 you worked first on a Friday is when you
8 guys did some excavation, it sounded
9 like. And then you worked -- came back
10 on a Monday and then worked Tuesday and
11 Wednesday. And I believe Wednesday was
12 the last day. The record will bear me
13 out, but I think Wednesday was the last
14 day.

15 THE COURT REPORTER: (Court
16 reporter indicating.)

17 MR. LAMB: Okay. Just give
18 me one second.

19 The court reporter needs to
20 replug in somewhere.

21 THE VIDEOGRAPHER: Off the
22 record.

23 - - -

24 (Whereupon, a discussion was

1 held off the record.)

2 - - -

3 THE VIDEOGRAPHER: Now back
4 on the record. The time is 11:29
5 a.m.

6 BY MR. LAMB:

7 Q. So I'm going to restate kind
8 of what was asked of you. So we have it
9 that you guys worked on a Friday -- you
10 guys meaning the crew from REMCO --
11 Friday, Monday, Tuesday, Wednesday. Do
12 you remember which of those days you were
13 exposed to water that got you wet?

14 MR. LYNAM: Objection to the
15 form.

16 You can answer.

17 A. Friday.

18 Q. Okay. Any other days?

19 A. All of the other days.

20 Q. So is it your testimony that
21 on Friday, Monday, Tuesday, and
22 Wednesday, you were exposed to water on
23 that job site?

24 A. Correct.

1 Q. Okay. And I guess we'll get
2 into that more specifically. But after
3 the first day it happened, why didn't you
4 make some provisions so that you didn't
5 have to get wet the next day?

6 A. I did.

7 Q. What did you do?

8 A. I brought a pump.

9 Q. Okay. And was that on
10 Monday?

11 A. Yes.

12 Q. And what kind of pump was it?

13 A. Just a plug-in pump. Sump
14 pump.

15 Q. Okay. And where did you plug
16 that in at?

17 A. To my extension cord.

18 Q. And where was that plugged
19 into?

20 A. To the island.

21 Q. Okay. And did -- was that
22 able to pump out the liquid that was in
23 the excavation on Monday?

24 A. Not all of it.

1 Q. Was there another pump that
2 was used on Friday?

3 A. (No verbal response.)

4 Q. Did Mr. Noone use a
5 gasoline-powered pump on Friday?

6 A. No.

7 Q. You don't recall that?

8 A. Not that I recall.

9 Q. Okay. Did -- did anyone pump
10 out the excavation on Friday?

11 A. Not that I recall.

12 Q. Okay. So on Monday, you
13 pumped out the excavation.

14 A. Correct.

15 Q. With your own pump?

16 A. Company-issued.

17 Q. Oh. A company pump.

18 A. Yes.

19 Q. Okay. Did the company
20 provide you with a gasoline-powered pump,
21 too?

22 A. I don't remember.

23 Q. So this pump, how big was it?
24 What was it -- what were its, you know,

1 specifications?

2 A. I don't know. It was a slot
3 pump.

4 Q. (Counsel indicating.)

5 A. Just like a slot pump.

6 Q. Okay.

7 A. You just put it in and it
8 would pump out. I don't know --

9 Q. You don't -- you don't --

10 A. -- how much gallons per
11 minute it was.

12 Q. Was it a pump that was just
13 submersible?

14 A. Yes.

15 Q. Okay. And it had a -- an
16 exit tube coming out of it?

17 A. Yes.

18 Q. And the water you pumped out
19 of the hole, where did you pump it to?

20 A. Storm drain.

21 Q. And how far away was that?

22 A. 10, 15 feet.

23 Q. Was it a classic graded storm
24 drain, do you mean?

1 A. Correct.

2 Q. Okay. Like a sewer drain.

3 A. Yes.

4 Q. Okay. And how long did it
5 take to pump out the excavation on Monday
6 with that pump?

7 A. I --

8 MR. LYNAM: Objection to
9 form.

10 Go ahead. Explain it to him.

11 A. It ran until it burned up.

12 Q. Until the pump burned up.

13 A. Yeah.

14 Q. Was all the water out at that
15 point?

16 A. No.

17 Q. How long -- how much time did
18 it take until the bump burnt out?

19 A. About a half a day, if that.

20 Q. And while that was running,
21 were you in the excavation?

22 A. Yes.

23 Q. What were you doing during
24 that time?

1 A. Digging.

2 Q. Why were you still digging on
3 Monday; in other words, I had -- Mr.
4 Noone had said that -- that you had a
5 backhoe in and shovels in on Friday.

6 MR. LYNAM: Objection to the
7 form.

8 You can answer. You can
9 explain.

10 A. We backfilled it.

11 Q. On Friday.

12 A. On Friday. Came back on
13 Monday.

14 Q. And you had to reexcavate?

15 A. Yes.

16 Q. Was it easier to excavate on
17 Monday because the soil had been loosened
18 on Friday?

19 A. Yes.

20 Q. How long were you digging on
21 Monday?

22 A. All day.

23 Q. It took all day?

24 A. Yes.

1 Q. Why did -- I don't mean this
2 in a smart way. I'm just curious. Why
3 did it take all day to dig that out?

4 A. 'Cause you had to watch where
5 you're digging.

6 Q. Explain to me what you mean.

7 A. You didn't want to ruin the
8 waterline further than it was.

9 Q. The pipe.

10 A. Yes.

11 Q. So when you say all day
12 digging, how many hours is that?

13 A. I don't remember.

14 Q. No. I mean, what is all day
15 to you back then on Monday -- on that
16 Monday? Was that eight hours digging?
17 Six?

18 A. Eight, nine.

19 Q. Okay. Did you have any
20 assistance on that Monday in digging?

21 A. Yes.

22 Q. Who helped you out?

23 A. Tim.

24 Q. Okay. What's Tim's last name

1 again? I'm sorry. I forget.

2 A. Parise.

3 Q. Now, was he an apprentice
4 plumber?

5 A. Yes.

6 Q. So why would you as the
7 journeyman be doing the digging as
8 opposed to him?

9 A. That's how I always was.

10 Q. What do you mean?

11 A. I always did the work.

12 Q. And what was he doing all day
13 Monday then?

14 A. Handing me stuff.

15 Q. Like what?

16 A. Tools.

17 Q. What tools did you need to
18 dig other than the shovel?

19 A. Shovel, digging bar, little
20 shovels.

21 Q. Like, what's a little shovel?
22 Like a hand trowel?

23 A. Yes.

24 Q. How big was the excavation

1 from side to side and, say, end to end?

2 A. I don't know exactly.

3 Q. Roughly.

4 A. 9 feet by 9 feet.

5 Q. Okay. And how deep was it on
6 Monday?

7 A. I don't know the exact
8 amount.

9 Q. When you -- on Monday when
10 you were finished excavating at the end
11 of the day with your shovel and you were
12 standing in the bottom of the excavation,
13 was the ground level at your shoulders,
14 your waist, your head? Where was the
15 ground level?

16 A. About my head.

17 Q. About your head.

18 And how tall are you?

19 A. 5'9".

20 Q. So it was shorter than 5'9",
21 the depth.

22 A. Roughly, yes.

23 Q. So it's your testimony that
24 the only work you did on Monday there was

1 to dig.

2 A. What I remember, yes.

3 Q. While you were digging, how
4 deep was the water that was in the
5 excavation?

6 MR. LYNAM: Objection to the
7 form.

8 You keep calling it water.
9 Just liquid or --

10 MR. LAMB: Water. I'll call
11 it liquid. That's fine.

12 Q. (Continued) While you were
13 digging, how deep was the liquid that was
14 in the excavation?

15 A. To my knees.

16 Q. For the entire day?

17 A. Yes.

18 Q. On Monday, did you know
19 any -- could you tell what this liquid
20 was?

21 A. Not that I remember, no.

22 Q. At any time on Monday, did
23 you notice any -- anything peculiar or
24 particular about the liquid?

1 A. No.

2 Q. Did the liquid that -- that
3 was in the -- in the excavation on Monday
4 that was up to your knees have any smell?

5 A. No. It didn't have a smell.

6 Q. What -- did it have any
7 particular appearance? Was it clear?
8 Was it muddy?

9 A. It was muddy, dark.

10 Q. Okay. Did it have a sheen on
11 it?

12 A. What's sheen?

13 Q. Okay. The liquid that you
14 were -- that was in the excavation while
15 you were digging on Monday, did it have
16 any type of coating on the top of it?

17 A. Like?

18 Q. Any type of coating at all
19 that -- that would seem not to be water.

20 A. Not that I can remember.

21 Q. Okay. Have you ever seen
22 oil, like motor oil, on water?

23 A. Yes.

24 Q. All right. And you know how

1 it kind of has that sheen on it, which
2 is, like, rainbowy and kind of colors
3 and -- looks like?

4 A. Yes.

5 Q. Did you ever see that in the
6 liquid on Monday? Anything similar to
7 that?

8 A. Not that I remember.

9 Q. Okay. Do you know if what
10 you were standing in on Monday was
11 anything other than water and mud?

12 A. No.

13 Q. You don't know.

14 A. Don't know.

15 Q. Did anyone take a sample of
16 it?

17 MR. LYNAM: Objection to
18 form.

19 Q. (Continued) Did anyone --
20 I'm sorry. Did anyone take a sample of
21 the liquid you were standing in on
22 Monday?

23 A. Not that I know of.

24 Q. Okay. Do you know where that

1 liquid came from?

2 A. No.

3 Q. When you got back on Monday
4 to the job site, was the -- the -- was
5 the excavation fully filled in up to
6 ground level?

7 A. Yes.

8 Q. Was there any covering on top
9 of it?

10 A. The excavator.

11 Q. The actual physical excavator
12 was on top of it?

13 A. Yeah.

14 Q. Okay. But what I was looking
15 for, was there a plate or plywood on top
16 of it or anything like that?

17 A. I don't remember.

18 Q. Okay. And when you started
19 the day with Mr. Parise, what's the first
20 thing you guys did when you got there
21 Monday?

22 A. Set up.

23 Q. What does setup entail?

24 A. Getting our tools out,

1 start -- start the excavator, log into
2 the kiosk.

3 Q. Okay. The excavator was
4 there still.

5 A. Yes.

6 Q. And you knew how to operate
7 it.

8 A. Correct.

9 Q. Was any digging done with the
10 excavator on Monday?

11 A. Yes.

12 Q. How many -- how much of the
13 time were you digging with the excavator?

14 A. I don't remember.

15 Q. When you got there on Monday,
16 did you have any knowledge where the
17 broken pipe was based upon your work you
18 had done on Friday?

19 A. Roughly.

20 Q. Okay. And where was it
21 roughly?

22 A. In our pit.

23 Q. I understand that. But how
24 far down was it?

1 A. Roughly 5 foot 9.

2 Q. Okay. You knew that from
3 Friday?

4 A. Yes.

5 Q. And did you know the
6 orientation within the excavation, where
7 it was, whether it was in the, you
8 know -- and I'm not saying the excavation
9 necessarily had a north side, south side,
10 east side, or west side. But did you
11 roughly know where it was within the
12 excavation?

13 A. At the one side, yes.

14 Q. Okay. And how would you
15 describe that side where it was? What's
16 a landmark we can use? Was it closest to
17 the store? Closest to the islands?
18 Closest to --

19 A. Closest to the island.

20 Q. Okay.

21 MR. LYNAM: The diesel
22 island?

23 THE WITNESS: Yes.

24 Q. (Continued) So you knew when

1 you got there Monday morning that the
2 broken pipe was 5 feet 9 inches
3 underground and closest to the diesel
4 island.

5 A. Roughly 5 foot 9.

6 Q. Roughly 5 foot 9. Okay.

7 Yeah. I mean, I know it wouldn't be to a
8 laser accuracy. But roughly 5 foot 9?

9 A. (Witness nods head.)

10 Q. Yes?

11 A. Correct.

12 Q. So did you understand that
13 the first 5 feet of digging could be done
14 with a -- with a power tool like the
15 excavator?

16 A. Yes.

17 Q. And on Monday, did you do
18 that first 5 feet of digging with the
19 excavator?

20 A. Roughly, yes.

21 Q. And how long did that take?

22 A. Not long.

23 Q. All right. You're going -- I
24 don't run an excavator every day so

1 you're going to have to give me some idea
2 how long that would take.

3 A. Half an hour.

4 Q. Okay. And when you got done
5 that 30 minutes of excavating, how far
6 down in the excavation were you?

7 A. Roughly 4 feet, 4-1/2 feet.

8 Q. Okay. And had you cleared
9 the -- your desired width and breadth of
10 the hole of the excavation?

11 A. Yes.

12 Q. So at that point to get to
13 the actual area where the pipe was, you'd
14 have to dig about another 12 to 18
15 inches? I -- I didn't do the math but --

16 A. Yes. Roughly.

17 Q. Okay. So like a foot to a
18 foot and a half.

19 A. Yes.

20 Q. And did you have, like, a
21 full long handle shovel there?

22 A. Yes.

23 Q. And you had some other
24 smaller tools to use.

1 A. Correct.

2 Q. Now, who did that digging --
3 after you were done the excavating
4 portion on Monday, who did the digging?

5 A. I did.

6 Q. Okay. And did you do -- you
7 did it all?

8 A. Majority -- yes. I would
9 throw it up on the asphalt and then Tim
10 would shovel it over into the pile.

11 Q. Okay. And on Monday, when
12 did you first see water -- or I'm sorry.
13 On Monday, when did you first see liquid
14 in the excavation?

15 A. Roughly... after my first
16 scoop.

17 Q. With the excavator?

18 A. Yes.

19 Q. So the first time you pierced
20 the ground-level soil that had been
21 refilled in -- when you pulled that
22 bucket full of soil out and went to put
23 it somewhere, when you turned the
24 excavator back, you saw liquid.

1 A. Yes.

2 Q. At that point in time, did
3 you ask yourself, where is this liquid
4 coming from?

5 A. No.

6 Q. Did you know where it was
7 coming from?

8 A. No.

9 Q. Had you seen that same liquid
10 on Friday?

11 A. Yes.

12 Q. So let's go back to Friday.
13 What time do you get to the job site on
14 Friday?

15 A. I don't remember.

16 Q. And do you arrive by yourself
17 or with Mr. Parise or with Mr. Noone?

18 A. By myself.

19 Q. By yourself.
20 In your truck?

21 A. Yes.

22 Q. Your REMCO truck.

23 A. Yes.

24 Q. And when you get there,

1 what's the first thing you do on Friday?

2 A. Set up.

3 Q. Which is getting all your
4 tools out and stuff like that.

5 A. Correct.

6 Q. Now, did you know what you
7 were going to be doing on Friday before
8 you got there?

9 A. Not in detail.

10 Q. Okay. What did you know
11 before you got there on Friday?

12 A. There was a bursted
13 waterline.

14 Q. Okay. You knew it was
15 underground.

16 A. Yes.

17 Q. And you knew you were working
18 at a gas station.

19 A. Yes.

20 Q. Did you have any concerns
21 going there on Friday, knowing you were
22 working at a gas station, there might be
23 gasoline or diesel or other substances?

24 A. No.

1 Q. What was your job on the job
2 site on Friday? What did you do?

3 A. Friday, I was in charge of
4 setting up and making sure everything ran
5 smoothly.

6 Q. What do you mean, making sure
7 everything ran smoothly?

8 A. Making sure everything got
9 there, we had material lists ready for
10 the next day and everything.

11 Q. So --

12 A. And assist Frank.

13 Q. Okay. Was -- what was Mr.
14 Noone's job on Friday?

15 A. He was going to be in charge
16 of the job.

17 Q. So he was the most senior
18 person on the job?

19 A. Yes.

20 Q. And he was supervising the
21 job.

22 A. Yes.

23 Q. Was he only going to
24 supervise it on Friday or was he supposed

1 to supervise on Monday, Tuesday,
2 Wednesday, too?

3 A. He was supposed to do the
4 whole job.

5 Q. And why didn't he?

6 A. I don't know what went on
7 there.

8 Q. So when he didn't show up on
9 Monday, who became the most senior person
10 on the job?

11 A. I did.

12 Q. So were you running the job
13 on Monday, Tuesday, Wednesday?

14 A. Yes.

15 Q. So you were in full control
16 of what happened on that job?

17 A. (No verbal response.)

18 Q. You were giving the orders as
19 to what would happen.

20 A. Yes.

21 Q. Did you ever find out why Mr.
22 Noone didn't come on Monday, Tuesday, and
23 Wednesday?

24 A. No.

1 Q. So what physical work did you
2 do on Friday?

3 A. Digging, climbing into the
4 pit, grabbing the copper line. That's
5 where we found it on the one side.

6 Q. Okay. And then why would you
7 fill it back in then after you found it
8 and located it? Why would you put all
9 that dirt back on top of it again?

10 A. 'Cause it was Saturday and
11 Sunday. And we didn't -- that wasn't my
12 choice. That was Frank. He was in
13 charge of the job.

14 Q. Well, did you ever work on
15 Saturdays for REMCO?

16 A. Every now and then.

17 Q. And why didn't you work the
18 Saturday -- I mean, what I'm getting at
19 is, why would you do the excavation on a
20 Friday and then just refill in just what
21 you did?

22 A. I don't know. It wasn't my
23 choice.

24 Q. Frank's choice?

1 A. Yes.

2 Q. He -- so he never explained
3 to you why he wanted to refill the hole.

4 A. No.

5 Q. So how much time were you in
6 the excavation, meaning, you know, in --
7 in the hole, for lack of a better word,
8 on Friday?

9 A. The whole time he was
10 digging. 'Cause you always have a guy in
11 the hole while he's excavating when
12 you're trying to find something. 'Cause
13 he can't see the back end of his bucket.

14 Q. Okay. So how much time was
15 that?

16 A. I don't remember hour-wise.

17 Q. Were you in the excavation
18 for more than an hour on Friday?

19 A. Yes.

20 Q. For more than two hours?

21 A. Yeah.

22 Q. For more than three?

23 A. Yeah.

24 Q. Okay. When did you first see

1 liquid in the excavation on Friday?

2 A. Probably about 3 feet down.

3 Q. Okay. And do you know how
4 long you had been digging when you saw
5 that liquid?

6 A. Don't recall.

7 Q. And how did it appear? Did
8 it start to seep into the excavation?
9 Did he take out a shovelful and all the
10 sudden it was there? Tell me how -- how
11 you first saw it.

12 A. It was bubbling up.

13 Q. It was bubbling up --

14 A. Yes.

15 Q. -- from underneath?

16 A. Correct.

17 Q. Was it actually bubbles?

18 A. Yes.

19 Q. And as he would dig deeper,
20 did it -- did it get deeper?

21 A. Yes.

22 Q. Did the bubbling increase?

23 A. Well, the bubbles weren't as
24 strong 'cause there's more water or

1 liquid in the -- in the pit.

2 Q. So I'm trying to understand.

3 Was there -- was there actually a time
4 when he took a shovelful of dirt out and
5 all the sudden it was like -- (counsel
6 indicating)? Like it just started
7 bubbling up water.

8 A. Yes.

9 Q. Like you hit a spring or
10 something.

11 A. Correct.

12 Q. What did that liquid look
13 like?

14 A. Dark colored.

15 Q. Was it ever clear? Like, if
16 you weren't in the pit for a while and it
17 kind of settled, did it ever get clear?

18 A. No.

19 Q. And when you say dark
20 colored, do you mean, like, black or do
21 you mean, like, you just couldn't see
22 through it?

23 A. You couldn't see through it.

24 Q. How -- what would you compare

1 it to? Would you compare it to, like, a
2 muddy river? Motor oil? What would you
3 compare it to?

4 A. (No verbal response.)

5 Q. 'Cause we weren't there so we
6 are just trying to get an idea of what it
7 looked like. So give the jury an idea.
8 Was it like a -- you know, go everything
9 from, you know, a clear stream that you
10 can see the -- the stones underneath on
11 to, like, motor oil. Okay. Like dark,
12 black motor oil. Where did it fall on
13 that spectrum? What would you compare it
14 to?

15 A. The darker end of like a
16 molasses.

17 Q. Okay. Was it thick?

18 A. It wasn't too thick, but it
19 wasn't thin.

20 Q. Was it thicker than water?

21 A. It was diluted with water.
22 Whatever it was, it was just all water,
23 mud, stones.

24 Q. No. But my question is: You

1 stepped into it; right?

2 A. Yes.

3 Q. Did you ever touch it with
4 your hand?

5 A. No. I had digging gloves on.

6 Q. Okay. But I mean, could
7 it -- could it go through the digging
8 gloves?

9 A. Yes.

10 Q. Was it warm or cold?

11 A. It was cold.

12 Q. Was it the same temperature
13 as the air --

14 A. No.

15 Q. -- or colder?

16 A. No. It was a little bit
17 warmer.

18 Q. Than the air?

19 A. Yeah.

20 Q. Okay. And so would you say
21 it was in the 40s if the air was in the
22 30s?

23 A. I don't know.

24 Q. Okay. Was -- I mean, did it

1 ever turn to ice while you were working?

2 A. No.

3 Q. How thick was it? Was it --
4 compare it to something that -- that we
5 would see every day or -- or see -- some
6 liquid we would see every day. How thick
7 was it?

8 A. Like muddy water.

9 Q. Okay. All right. When you
10 would step in it, would it splash or
11 would it just kind of ooze -- like, do
12 you know what I mean? Like -- like, how
13 would it cover your boot? Was it
14 something you could splash in like a
15 puddle or was it thicker than that?

16 A. You could splash in it.

17 Q. Okay. And at any time when
18 you stood above it, could you see the
19 soil underneath that liquid?

20 A. No.

21 Q. Okay. And what color was it?

22 A. Like a molasses, dirty
23 brownish mixture.

24 Q. Like close to that coffee

1 cup?

2 A. Roughly, yes.

3 MR. LAMB: I'll just hold
4 that up so everyone can see the
5 court reporter's coffee cup.

6 Q. Like this brown right here.
7 The background brown; right?

8 A. No.

9 Q. No?

10 Which brown is it like?

11 A. By the Wawa sign.

12 Q. By the Wawa sign.

13 Oh. This reddish -- or this
14 one?

15 A. Yes.

16 MR. LAMB: Okay. So everyone
17 sees, it's this one above Wawa.

18 Okay.

19 Thank you.

20 Q. Did it stay that same color
21 throughout the four days you were on the
22 job site?

23 A. Yes.

24 Q. While you were there those

1 four days, did you have any suspicion or
2 thought that there might be something in
3 that liquid other than mud and water?

4 A. No.

5 Q. Did anyone?

6 A. None of us workers, no.

7 Q. So why do you now think that
8 there was something else in there other
9 than dirt and water?

10 MR. LYNAM: Objection to the
11 form.

12 Go ahead.

13 THE WITNESS: (Witness
14 indicating.)

15 MR. LYNAM: You can answer if
16 you can.

17 A. I don't -- can you repeat it?

18 Q. Sure. Why do you now think
19 that there was something else in that
20 liquid other than water and mud?

21 MR. LYNAM: Same objection.

22 A. 'Cause I'm sick now.

23 Q. Okay. But do you have any --
24 any evidence at all that there was

1 something else in that liquid other than
2 water and mud?

3 MR. LYNAM: Objection to the
4 form.

5 THE WITNESS: (Witness
6 indicating.)

7 MR. LYNAM: You can't tell
8 him about anything --

9 Q. (Continued) Nothing that
10 these guys may know. But do you have any
11 other evidence that there was anything in
12 there other than liquid -- other than
13 water and mud?

14 A. Not to my evidence, no.

15 Q. Okay. Did you see anything
16 over those four days that would indicate
17 to you that there was something in that
18 liquid other than water and mud?

19 A. Not to my knowledge of
20 anything.

21 Q. Did you ever see that sheen
22 that I talked about when you see oil on
23 top of water? Did you ever see a similar
24 sheen on that liquid on any particular

1 day?

2 A. Not that I can remember
3 exactly this day I seen this.

4 Q. Well, no. I mean, on any --
5 you don't have to tell me which day you
6 saw it on, but on any of the days you
7 were there, the four days, did you ever
8 see a sheen like that on the water?

9 A. Every now and then.

10 Q. What do you mean, every now
11 and then?

12 A. Like when -- break to have,
13 like, lunch or a break or something like
14 that --

15 Q. Okay.

16 A. -- we'd come back and the
17 water would be calm then.

18 Q. The water would be what?

19 A. The water would be calm.

20 Q. Okay.

21 A. And you'd naturally get,
22 like, a film across the top.

23 Q. What did that film look like?

24 A. Like the muddy-ish, mercury.

1 Q. Muddy-ish what?

2 A. Mercury water or whatever.

3 Q. Mercury water?

4 A. Like --

5 MR. LYNAM: Murky.

6 A. (Continued) Murky water.

7 Q. I'm sorry. Okay.

8 Like what you would see on
9 top of, like, a puddle on a construction
10 site?

11 A. Yes.

12 Q. If it was undisturbed for a
13 while?

14 A. Yes.

15 Q. So it wasn't that sheen. It
16 was more just a brown covering.

17 A. Yeah.

18 Q. Okay. During those entire
19 four days when you were down in that pit,
20 did you ever smell anything strange or
21 chemical-like or gasoline-like or
22 anything like that?

23 A. No.

24 Q. When you got home every day

1 after work -- well, let me go back.

2 It -- it seemed to me from the
3 photographs I saw that you wore
4 Carhartts.

5 A. Correct.

6 Q. Carhartt overalls.

7 A. Correct.

8 Q. Was it just the pants
9 overalls or was it an entire suit?

10 A. It was the bibs where they
11 come up to your chest.

12 Q. So, like, pants overalls that
13 come up to your chest like typical
14 overalls.

15 A. Yes.

16 Q. Did you wash those every
17 night?

18 A. No.

19 Q. What would you do with them
20 at the end of the day?

21 A. Put them in the back of my
22 truck.

23 Q. Okay. Did they dry out every
24 day of that job afterwards?

1 A. Not really.

2 Q. Okay. Did you ever wash them
3 after the job?

4 A. No.

5 Q. How often would you -- would
6 you wash those overalls?

7 A. I would wash them usually
8 after, like, a big job. But after that
9 job, I just forgot about it.

10 Q. What do you mean?

11 A. I forgot to wash them.

12 Q. And where did they stay?

13 A. In the back of my truck.

14 Q. Okay. For how long were they
15 in the back of your truck?

16 A. I don't remember exactly.

17 Q. When you would put on your
18 Carhartts on Tuesday morning, were they
19 still damp from the day before?

20 A. Yes.

21 Q. What did you wear under the
22 Carhartts?

23 A. A pair of jeans.

24 Q. Were the insides of the

1 Carhartts damp from the day before?

2 A. Yeah.

3 Q. Did that bother you?

4 A. Not really.

5 Q. Did the Carhartts smell? Did
6 you ever pick up a smell off of them on
7 Friday, Monday, Tuesday, Wednesday, or
8 any time thereafter?

9 A. Not that I remember a smell.

10 Q. Did you ever bring them
11 inside, to an inside area, like inside
12 your house or inside your garage or
13 anything like that, where they dried out
14 and warmed up?

15 A. No. I kept them in the back
16 of my truck.

17 Q. And where did they go after
18 you kept them in the back of your truck?
19 Where's the next place you put them?

20 A. I don't remember where I put
21 them. They were in the back of my truck
22 and then... I don't remember where I put
23 them.

24 Q. Do you -- you don't remember

1 taking them out of your back of your
2 truck?

3 A. I don't remember exactly when
4 I took them out.

5 Q. But at some point, you did.

6 A. Yeah.

7 Q. And where did you put them
8 after you took them out of the back of
9 your truck?

10 A. In a bag.

11 Q. In what kind of a bag?

12 A. Trash bag.

13 Q. And why did you do that?

14 A. 'Cause they had mud all over
15 them.

16 Q. And where did you put the
17 trash bag then?

18 A. I tied it and threw it in the
19 garage 'cause I had to take it to the
20 laundry mat.

21 Q. Okay. Did you ever take it
22 to the laundry mat?

23 A. No.

24 Q. Why not?

1 A. I got sick.

2 Q. Okay. And did you do any
3 outside jobs for REMCO after that job at
4 the Pilot center?

5 A. No.

6 Q. How many pairs of Carhartt
7 overalls did you own back in March?

8 A. One.

9 Q. So you didn't have any
10 outside jobs between the day you finished
11 at the Pilot Travel Center and when you
12 got too sick to work anymore.

13 A. No.

14 Q. And they sat in your garage
15 in that plastic bag.

16 A. Yes.

17 Q. And then what's the next
18 thing you did with them?

19 A. I... let them sit there until
20 I...

21 MR. HARRINGTON: I couldn't
22 hear that.

23 MR. LAMB: He said he let
24 them sit there until...

1 Q. Where -- where are they now?

2 A. I don't have them.

3 Q. Who did you give them to?

4 A. I gave them to Tom and Lenny.

5 Q. Okay. When did you give it
6 to them?

7 A. When I met them.

8 Q. Okay. How long -- I'm not
9 trying to play games here. Like, just
10 tell me when that was. I don't want to
11 have to pull teeth. Just -- just tell me
12 when it was if it's okay.

13 MR. LYNAM: It wasn't -- it
14 wasn't long after the
15 hospitalization.

16 MR. LAMB: Well, yeah.

17 Q. (Continued) I mean, do you
18 remember when it was?

19 A. April maybe.

20 Q. Okay. And how did they get
21 from your garage to -- to Mr. Lynam and
22 Mr. Villari?

23 A. I just gave them to them.

24 Q. After you got out of the

1 hospital?

2 A. Yes.

3 Q. Were they still in the bag?

4 A. Yeah.

5 MR. LAMB: Okay. Let's take
6 a quick break. Is that okay with
7 everyone?

8 MR. LYNAM: Yeah.

9 THE VIDEOGRAPHER: Going off
10 the record. The time is 11:56.

11 - - -

12 (Whereupon, a luncheon recess
13 was taken.)

14 - - -

15 (Whereupon, Exhibits Marino 1
16 through 5 were marked for
17 identification.)

18 - - -

19 THE VIDEOGRAPHER: We're now
20 back on the record. This begins
21 DVD Number 2. The time is 12:38
22 p.m.

23 BY MR. LAMB:

24 Q. Mr. Marino, we're back on the

1 record. I think you had a chance to get
2 something to eat or drink?

3 A. Yes.

4 Q. Okay. And you took some
5 medicine?

6 A. Yes.

7 Q. Okay. So you're good to go?

8 A. Yes.

9 Q. Okay. So those Carhartt
10 coveralls, do you know when you first
11 purchased those?

12 A. Don't know the exact date.

13 Q. Okay. How long had you had
14 them as of March 2014?

15 A. A couple years.

16 Q. They were insulated, I
17 assume?

18 A. Yes.

19 Q. So they were winter
20 coveralls?

21 A. Yes.

22 Q. So you would wear them during
23 the wintertime only?

24 A. Yes.

1 Q. You wouldn't wear them,
2 obviously, in the summer.

3 A. No.

4 Q. And what were the occasions
5 when you would wear them? When would you
6 take them with you to a job?

7 A. When I was digging or if it
8 was really cold out.

9 Q. So before the work at the
10 Pilot Travel Center, you had been working
11 for REMCO for -- since July 2013. How
12 many times had you used them between July
13 2013 and the work at the Pilot center?

14 A. I don't know an exact amount.

15 Q. Okay. And had you used them
16 when you worked for prior employers too?

17 A. No.

18 Q. No.

19 So they were -- did you buy
20 them sometime around the time you started
21 with REMCO --

22 A. Yes.

23 Q. -- the second time?

24 So they were fairly new?

1 A. Fairly.

2 Q. And when you weren't using
3 them, where would you keep them?

4 A. In the back of my truck.

5 Q. Okay. So they would just
6 always be there?

7 A. Yes.

8 Q. What kind of truck did you
9 have?

10 A. A Reading body.

11 Q. So it's a pickup truck with a
12 frame on the back?

13 A. Yes.

14 Q. And where would you keep the
15 coveralls? Were they just in that middle
16 portion that's kind of open to the
17 elements?

18 A. No. It had a cab over the
19 top of it.

20 Q. Oh, it did.

21 A. Yes.

22 Q. Okay. So it had the side
23 containers on the -- on the bed as well
24 as a cab over the middle?

1 A. Yes.

2 Q. So you would keep them in the
3 middle portion?

4 A. Yes. Up in the top.

5 Q. All right. Did you keep fuel
6 in that truck at all?

7 A. No.

8 Q. Spare gas tank or diesel tank
9 or anything like that?

10 A. No.

11 Q. Okay. And did you keep any
12 power tools in the same area where you
13 kept the Carhartt pants?

14 A. No.

15 Q. No gas-powered pumps or
16 anything?

17 A. No.

18 Q. So Mr. Noone testified that
19 he had a gas-powered pump in his truck
20 that was REMCO's. Do you know why you
21 didn't have one of those?

22 A. I never... I used the
23 electric one. I never had the need for a
24 gas-powered one.

1 Q. Okay.

2 A. Plus, they're heavy.

3 Q. Did you consider or was there
4 a reason -- let me ask you this: There's
5 one photograph of you from this job at
6 Pilot and you have mud on your Carhartt
7 overalls, on your jacket and stuff. Why
8 did you take that photo?

9 A. For reimbursement.

10 Q. For reimbursement for what?

11 A. 'Cause they were destroyed
12 with mud.

13 Q. What was destroyed?

14 A. The Carhartts.

15 Q. And you were going to ask
16 REMCO to buy you a new pair?

17 A. Yeah.

18 Q. And the -- what day of the
19 job was that, do you remember?

20 A. I don't remember.

21 Q. Okay. There appears to be a
22 concrete truck in the background and --
23 but as I understand it, there was a
24 concrete truck one day -- day there to do

1 flowable fill.

2 A. Correct.

3 Q. And then another day to do
4 the actual concrete?

5 A. Correct.

6 Q. So that doesn't give us a
7 timing --

8 A. Correct.

9 Q. -- right?

10 A. Correct.

11 Q. Now, was there a pump truck
12 that pumped water there one of the days?

13 A. Pumped liquid, yes.

14 Q. I'm sorry. Liquids. Okay.
15 Do you remember what day it
16 was?

17 A. Not exactly sure which day it
18 was.

19 Q. Was it only there for one
20 day?

21 A. Correct.

22 Q. Do you remember what color
23 the hoses were that that pump truck used
24 to pump out the water?

1 A. Green and black.

2 Q. Green -- green and black
3 stripes or green --

4 A. Yes.

5 Q. What do you mean? Or solid
6 green and solid black?

7 A. No. Green and black striped.

8 Q. Okay. So going back to
9 Friday, you're on this site on Friday.
10 Did you actually uncover the pipe that
11 had to be fixed on Friday?

12 A. The one side of it.

13 Q. What do you mean, the one
14 side of it?

15 A. The one side of the pipe.
16 Like, closest to the island.

17 Q. Okay. All right. So was it
18 your impression that you -- you found one
19 side of the pipe but what -- the other
20 part of the pipe that it connected to,
21 you did not find on Friday?

22 A. Correct.

23 Q. Did you ever find the other
24 side that it connected to?

1 A. Yes.

2 Q. And when did you find that?

3 A. Tuesday, Wednesday.

4 Q. Okay.

5 MR. LYNAM: (Counsel
6 indicating.)

7 MR. LAMB: Bless you.

8 MR. LYNAM: Thank you.

9 Q. (Continued) Were both
10 stems -- can I call them stems? Is the
11 right -- what do you want to call them?
12 Both pipe pieces copper?

13 A. Yeah.

14 Q. Okay. So the missing part
15 was in between them?

16 A. Correct.

17 Q. Now, the pipe that you found
18 on Friday, did that pipe -- where did
19 that pipe go when it left the excavation?

20 A. Into a concrete cylinder.

21 Q. Like, can we call it a vault?
22 Is that okay? Concrete --

23 A. Yeah.

24 Q. What do you want to call it?

1 I'll call it anything you want.

2 A. A cylinder.

3 Q. Cylinder. Okay.

4 The concrete cylinder it went
5 into, from the ground, would that appear
6 to be a manhole?

7 A. Correct.

8 Q. 'Cause it had a cover on it?

9 A. Correct.

10 Q. And was that closer to the
11 diesel island than the excavation?

12 A. By a foot.

13 Q. Okay. By a foot.

14 So the pipe that you found
15 that was broken off, it went into that
16 vault.

17 A. Correct.

18 Q. How did it pierce that vault?
19 Was there -- in other words, was it loose
20 in the concrete of the -- of the wall of
21 the vault or was it -- was it silicone
22 gelled in there? How was it in there?

23 A. It went underneath it. The
24 vault only went down so far.

1 Q. Okay. So you're saying the
2 pipe went underneath the wall of the
3 vault and then came up.

4 A. Correct.

5 Q. What was the floor of the
6 vault made out of?

7 A. Just stone.

8 Q. Okay. And so how deep was
9 the floor of that vault?

10 A. Roughly 5 foot 9.

11 Q. Why do you say that?

12 A. 'Cause we had to go down into
13 it.

14 Q. All right. You stood in that
15 vault.

16 A. Yes.

17 Q. And it was just at your head
18 level then?

19 A. Yes.

20 Q. The top of your head?

21 A. Yeah.

22 Q. I had the impression that
23 the -- that the pipe that broke actually
24 went through the wall of the vault and

1 went into it and made a right-hand turn.

2 That's -- that's not accurate?

3 A. No.

4 Q. It went underneath that wall
5 and then came up vertically --

6 A. True.

7 Q. -- and then made a turn?

8 A. It went through and then
9 there was a 90 where it adapted to a
10 different pipe that went to the island.

11 Q. And that -- did that --
12 did -- when it got into the vault and
13 went up and hit a 90-degree turn, did the
14 pipe then go through the wall of the
15 vault?

16 A. Yes.

17 Q. Okay. So there was some hole
18 in the wall of that vault.

19 A. It was sealed, though.

20 Q. How was it sealed?

21 A. It was concreted.

22 Q. So that -- was the pipe just
23 fixed in position there?

24 A. Correct.

1 Q. Okay.

2 A. 'Cause it wasn't copper. It
3 was poly.

4 Q. It was poly. Okay.

5 A. Yes.

6 Q. What -- PVC?

7 A. No. Poly.

8 Q. What's poly?

9 A. It's like a -- almost like
10 PVC. But it's not.

11 Q. All right. So you had a poly
12 pipe going from the island to the vault
13 that went through the wall of the vault
14 and then it was switched to copper that
15 went down through the floor of the vault
16 and -- and then up into your excavation?

17 A. Yes. Well, it didn't go
18 into -- it -- it was level.

19 Q. Level. Okay.

20 A. Yes.

21 Q. Was -- I think I asked you
22 this question, but I'll just ask your
23 indulgence for a second. Was any pumping
24 done on Friday of the excavation?

1 A. No.

2 Q. No. Okay.

3 A. Not that I remember.

4 Q. So on Friday when you were
5 working there, there was liquid in there
6 and we've gone through all that; right?
7 We've discussed that.

8 Did -- did you -- these four
9 days that you were -- said you were
10 getting wet, did you get cold?

11 A. Yeah.

12 Q. I mean, pretty cold?

13 A. Yeah.

14 Q. Did you take breaks?

15 A. Yeah. Every now and then.

16 Q. Okay. What would you do for
17 a break?

18 A. Just go stand at the truck.

19 Q. By like the second day or
20 third day, did you ever think to bring
21 rubber boots to at least keep your feet
22 dry?

23 A. No.

24 Q. Why -- why did -- was there a

1 reason you didn't bring rubber boots to
2 keep your feet dry?

3 A. No.

4 Q. You just didn't do it?

5 A. I just...

6 Q. So the work boots that you
7 were wearing back down on that job, tell
8 me what they were, what brand and what
9 type and all that other stuff.

10 A. They were Chippewa --

11 Q. Okay.

12 A. -- work boots.

13 Q. Leather?

14 A. Yes.

15 Q. Rubber sole?

16 A. Yes.

17 Q. And do you still have them?

18 A. I don't know. I don't think
19 I have them anymore.

20 Q. What would you have done with
21 them?

22 A. Probably threw them away.

23 Q. Why is that?

24 A. 'Cause I don't wear them no

1 more.

2 Q. I mean, those are nice boots,
3 right, Chippewa boots?

4 A. Yeah.

5 Q. How much do they cost a pair?

6 A. (No verbal response.)

7 Q. 200 bucks?

8 A. Roughly.

9 Q. When did you buy those?

10 A. I don't remember.

11 Q. I mean, were they worn out?

12 A. No.

13 Q. But you threw them out.

14 A. Yeah.

15 Q. What about the jeans you were
16 wearing to the job site those four days?
17 Did you wear particular jeans just for
18 work?

19 A. I had work jeans.

20 Q. Okay. And is that what you
21 were wearing then?

22 A. Yes.

23 Q. And do you still have those
24 jeans?

1 A. Yes.

2 Q. And have they been washed
3 since that time?

4 A. Yes.

5 Q. Has any other clothing you
6 were wearing at that time not been washed
7 since the time of the accident?

8 A. No.

9 Q. The socks you were wearing,
10 did you wear any type of special socks?

11 A. No.

12 Q. Just regular cotton socks --

13 A. Yeah.

14 Q. -- or wool socks?

15 I just want to ask this
16 again. I just don't understand if you --
17 if your feet were getting soaked every
18 day, did they get cold, your feet?

19 A. Yeah.

20 Q. Pretty cold, I imagine, if
21 it's in the middle of March and your feet
22 are soaking wet; right?

23 A. Yes.

24 Q. And you didn't want to try to

1 avoid that?

2 A. No. It's how -- we're
3 plumbers. That's how we do it. I mean,
4 we -- if it gets wet, we deal with it,
5 get the job done, and go on to the next
6 one.

7 Q. Were your legs getting wet
8 and your knees and calves and thighs and
9 stuff too?

10 A. Yes.

11 Q. Were any other parts of your
12 body getting wet?

13 A. I was wet almost up to my
14 neck.

15 Q. So your jacket would get wet?

16 A. Yes.

17 Q. And would that soak through
18 to your undershirt?

19 A. I mean...

20 Q. How many layers were you
21 wearing on top?

22 A. I don't know.

23 Q. What would you typically
24 wear?

1 A. Usually, I'd wear a T-shirt,
2 an Under Armour, a sweatshirt, and my
3 jacket.

4 Q. Your REMCO jacket?

5 A. Correct.

6 Q. And underneath, you'd wear
7 obviously underwear, jeans and the --
8 would you wear long underwear or just
9 regular underwear?

10 A. A pair of boxers, Under
11 Armour pants, and a pair of jeans.

12 Q. What are the Under Armour
13 pants? Like Lycra?

14 A. Yes.

15 Q. Like that shiny, stretchy
16 stuff?

17 A. Yes.

18 Q. Why would you wear those?

19 A. 'Cause they kept you warm.

20 Q. You didn't have, like,
21 heaters in your boots or anything like
22 that?

23 A. No.

24 Q. How would you dry your boots

1 out at night?

2 A. Just sit them on the front
3 porch.

4 Q. And they would dry out?

5 A. Not totally.

6 Q. So you'd have to put wet
7 boots on the next morning?

8 A. Yeah.

9 Q. So how much time would you
10 estimate you spent in the hole while
11 there was liquid present on Friday?

12 A. I believe I said like over
13 three hours.

14 Q. Do -- was it between three
15 and four or was it -- could it have been
16 more than that?

17 A. Could have been between three
18 and four.

19 Q. You think that's what it was?

20 A. Yeah. Roughly.

21 Q. Okay. And then on Monday,
22 how much time would you have spent in the
23 excavation with liquid?

24 A. Almost all day.

1 Q. Okay. And then what about
2 Tuesday? How much time would you have
3 spent in the excavation on Tuesday with
4 liquid still in the excavation?

5 A. Almost all day.

6 Q. Well, didn't you have to run
7 out and get a part on Tuesday?

8 A. Yeah.

9 Q. Did you run out or did -- did
10 someone else run out and get it?

11 A. I ran out for one and Tim ran
12 out for another one.

13 Q. How long did it take you to
14 get that, to run out for that part?

15 A. Half an hour.

16 Q. Where did you go?

17 A. Down to the plumbing supply
18 house.

19 Q. Okay. And then on Wednesday,
20 did you spend any time in the excavation
21 on Wednesday?

22 A. Every day I was there, I was
23 in the excavation. That day, I don't
24 remember how long I was in.

1 Q. On Wednesday?

2 A. Yeah.

3 Q. Do you remember if -- if
4 really there was an excavation on
5 Wednesday?

6 A. Well, the pit was there.

7 Q. Which pit?

8 A. The pit that we were working
9 in.

10 Q. That's what I'm asking.
11 That's what I'm calling the excavation,
12 the -- the hole that was dug.

13 A. All right.

14 Q. Was that still excavated, an
15 open pit on Wednesday?

16 A. For part of the day.

17 Q. And was there still liquid in
18 it on Wednesday?

19 A. Yes.

20 Q. So let's talk about the pump
21 truck. The pump truck shows up. Do you
22 know what day it showed up on?

23 A. Not exactly sure.

24 Q. Okay. Was it there when you

1 got there in the morning?

2 A. No.

3 Q. What time did it arrive?

4 A. Shortly after we arrived.

5 Q. What time would you typically
6 arrive at that Pilot station?

7 A. Roughly around 9 o'clock.

8 Q. And did you talk to the pump
9 truck driver when he or she got there?

10 A. Yes.

11 Q. Was it a he or she?

12 A. It was a he.

13 Q. And what did -- what was your
14 conversation with him?

15 A. We're gonna pump this pit
16 out.

17 Q. So was the pit open when you
18 got to work that day, the -- the day the
19 pump truck showed up?

20 A. Yes.

21 Q. You didn't have to redig it.

22 A. No.

23 Q. Did you -- did the pump truck
24 pump it out?

1 A. Yes.

2 Q. And did you go down into the
3 pit before the pumping was done?

4 A. We went down -- I went down
5 to place the hose where we needed it.

6 Q. Why didn't the pump truck
7 operator do that?

8 A. They don't do that.

9 Q. What do you mean?

10 A. They'll only throw it to the
11 pit. They don't climb down in pits.

12 Q. Okay. So you -- you climbed
13 down in the pit.

14 A. Yes.

15 Q. And you placed the hose where
16 it should be.

17 A. Correct.

18 Q. Did you get wet when you did
19 that?

20 A. Yes.

21 Q. How much -- how deep was the
22 liquid in the hole when you went down
23 with the hose from the pump truck?

24 A. Roughly to my knees.

1 Q. Okay. And you walked into
2 that?

3 A. Yes.

4 Q. And you -- you put the pump
5 thing in there?

6 A. Correct.

7 Q. Did you stay down there while
8 he activated the pumping function?

9 A. No. I came back up.

10 Q. Okay. How long did it take
11 to pump out the pit?

12 A. He was there all day. Left
13 his truck run.

14 Q. He -- he was pumping the
15 entire day?

16 A. Correct.

17 Q. Did he ever pump all the
18 liquid out of the hole?

19 A. He would get down so far that
20 his hose wouldn't be able to pump, but
21 then it would gradually fill back up.
22 'Cause you can't pump mud.

23 Q. Right. And were you down in
24 the hole the whole time that pump was

1 running with the hose down there?

2 A. Yes.

3 Q. Did he ever turn the -- did
4 he ever stop it?

5 A. No.

6 Q. So you're down there, the
7 pump is running, sucking the water out,
8 but the hole is constantly refilling with
9 water?

10 A. Correct.

11 Q. Where was this water coming
12 from?

13 A. It was --

14 Q. Or liquid. Where was this
15 liquid coming from? Whatever you want to
16 call it. Water, liquid, I don't care.
17 Where was it coming from?

18 A. It was bubbling up through
19 the ground.

20 Q. It just continually bubbled
21 up from -- through the ground?

22 A. Kept coming.

23 Q. Did the nature of it ever
24 change from day to day?

1 A. No. It just kept...

2 Q. Bubbling up?

3 A. Bubbling up.

4 Q. Did you ever say to anyone,
5 like, where is this coming from?

6 A. No.

7 Q. Did you ever figure out where
8 it was coming from?

9 A. No.

10 Q. How about the soil from the
11 excavation? Where was that placed?

12 A. Next to the excavation.

13 Q. Did that have any smell to
14 it?

15 A. Not really.

16 Q. Did you notice anything
17 strange about the soil?

18 A. Not really.

19 Q. Was it anything other than
20 just dirt?

21 A. Dirt.

22 Q. Normal dirt?

23 A. Dirt.

24 Q. Okay. Now, was that placed

1 into a Dumpster at some point?

2 A. Yes.

3 Q. Do you know why that was?

4 A. No. They just told us to
5 take it over and put it in the Dumpster.
6 'Cause we backfilled with flowable.

7 Q. So did you find that strange
8 that they asked you to put the soil in a
9 Dumpster?

10 A. No.

11 Q. How did you do that? Or did
12 you do it or did someone else do it?

13 A. Tim did some of it and I did
14 some of it.

15 Q. So what was the process for
16 doing that?

17 A. We had a skid steer. We'd
18 pick it up, drive it over, and dump it
19 in.

20 Q. Okay. How did you get it
21 into the scooper part of the skid steer?

22 A. Put the skid steer down and
23 drove into it --

24 Q. Okay.

1 A. -- and picked it up.

2 Q. And did you -- did that get
3 cleaned up pretty well then --

4 A. Yes.

5 Q. -- most of the soil?

6 A. Yes.

7 Q. Did you ever see anyone from
8 Sovereign at the site?

9 A. Yes.

10 Q. And who -- what's the --
11 when's the first time you saw someone who
12 identified themselves as being from
13 Sovereign?

14 A. I'm not exactly sure on the
15 exact day when it was 'cause I only seen
16 him for like 30 seconds.

17 Q. Was it a male or female?

18 A. A male and a female.

19 Q. Were the male and female
20 there on the same day?

21 A. No.

22 Q. Who was there the first day,
23 the male or the female?

24 A. I believe it was the male.

1 Q. Okay. And what was your
2 first conversation with that male?

3 A. I told him who I was and that
4 I was here to work on the waterline.

5 Q. Okay.

6 A. And he asked me to sign a
7 paper stating -- for billing.

8 Q. What did he -- when you said
9 I'm here to work -- what were your exact
10 words to him to start that you remember?

11 A. I probably asked him how he
12 was doing.

13 Q. Okay. And then you told him
14 why you were there?

15 A. Yep.

16 Q. And did you mention anything
17 to him about the water in the excavation
18 at any point?

19 A. No.

20 Q. And after you told him why
21 you were there, what did he say to you?

22 A. He said, can you sign this
23 paper for billing purposes?

24 Q. Okay. What was the paper?

1 A. It was just lines where we
2 would sign for billing.

3 Q. Was the whole paper lines or
4 was there other print on the paper?

5 A. There was other print.

6 Q. Did you read the other print?

7 A. No.

8 Q. Do you wear glasses or
9 anything to read?

10 A. No.

11 Q. Okay. Why -- why didn't you
12 read any of the other print on there?

13 A. 'Cause he told me it was for
14 billing.

15 Q. Okay. Did you -- did you --
16 do you usually do that on job sites? I'm
17 not on job sites so I don't know.

18 A. Yes.

19 Q. Okay. So you usually just
20 sign other people's documents?

21 A. Yeah. If --

22 Q. Okay.

23 A. If they tell you it's for
24 billing, you -- you sign it.

1 Q. What does it mean to be for
2 billing? What did you interpret that
3 when he said it's for billing?

4 A. That they were charging
5 somebody. I don't handle that part of
6 it. My office does. I just sign the
7 paper.

8 Q. Did he ever -- did -- did the
9 gentleman who identified himself as being
10 from Sovereign ever talk to you about job
11 site safety issues?

12 A. No.

13 Q. Did he give you any job site
14 safety advice?

15 A. No.

16 Q. Did he talk to you about what
17 the liquid was in the hole?

18 A. Never.

19 Q. Did he take any samples of
20 the liquid in the hole?

21 A. Not that I know of.

22 Q. Do you recall him placing any
23 monitoring devices around the hole?

24 A. There was no way he would

1 have been able to.

2 Q. What do you mean?

3 A. 'Cause we were -- had an
4 excavator, pile of dirt, my truck. I
5 would have known if -- I -- I didn't see
6 any of it.

7 Q. So you didn't see any
8 monitoring devices.

9 A. No.

10 Q. And did you see this
11 gentleman -- how much time did he spend
12 in the excavation that day?

13 A. 30 seconds.

14 Q. And he actually went into the
15 hole?

16 A. No.

17 Q. Oh. Okay. Where was that 30
18 seconds?

19 A. Standing there, took a couple
20 pictures.

21 Q. Okay. Of you or what?

22 A. Of the hole.

23 Q. Okay. Do you remember
24 what -- was it a camera or cell phone?

1 What did he have with him?

2 A. I think it was a camera.

3 Q. And then what did he do?

4 A. Went and sat back in his
5 vehicle.

6 Q. And then how long was he at
7 the site that day?

8 A. All day.

9 Q. He didn't talk to you again
10 the whole day?

11 A. Until the end when we were
12 ready to leave.

13 Q. And tell me about that
14 conversation.

15 A. When we had to sign the paper
16 out that we were leaving.

17 Q. And you signed again.

18 A. Yep.

19 Q. And did you have any
20 conversation with him?

21 A. Asked me when we were gonna
22 be there again. I said, tomorrow, same
23 time.

24 Q. Okay. And no other

1 conversations?

2 A. No.

3 Q. Did he -- did he ever talk to
4 you about the monitoring well that had
5 been there?

6 A. No.

7 Q. When you did the digging on
8 Friday, did you see the monitoring well
9 that was there?

10 A. We seen a pipe coming up out.

11 Q. All right. Was that removed
12 as part of the digging?

13 A. Yes.

14 Q. And you had no other
15 conversations with the gentleman who
16 identified himself as from Sovereign.

17 A. No.

18 Q. Was he wearing any Sovereign
19 uniform, clothes, jacket, anything?

20 A. I believe he had a white hard
21 hat on.

22 Q. And what did it say?

23 A. I don't remember.

24 Q. Okay. Did you have any

1 questions for him throughout the day?

2 A. No.

3 Q. Did you know what he did?

4 What Sovereign did back then?

5 A. They were just in -- we knew
6 environmental.

7 Q. So you knew they were
8 environmental people.

9 A. Correct.

10 Q. So did you understand it that
11 if there was an environmental issue, you
12 were supposed to report it to them?

13 A. I would assume they would
14 have told me because I was the plumber
15 and they were the environmental people.

16 Q. Okay. Well, what if you had
17 observed something that caused you some
18 concern, an environmental issue, like
19 gasoline in the soil or diesel fuel in
20 the soil? Would you have reported it to
21 him?

22 A. Well, if he had been there,
23 he would have seen it. That's why we
24 thought that there was nothing -- nothing

1 wrong. 'Cause he wasn't --

2 Q. That's not my question,
3 though. I want to you listen to my
4 question. If you had seen diesel fuel or
5 detected diesel fuel or gasoline in the
6 soil that day, would you have reported it
7 to the person that you identified to be
8 from Sovereign?

9 MR. LYNAM: Let me just
10 object to the form because I don't
11 know that you've laid a foundation
12 that he even has the ability to
13 identify these things once they're
14 in the ground but...

15 MR. LAMB: Okay. But I mean
16 just if he did. Yeah.

17 MR. LYNAM: Okay.

18 Q. (Continued) You can answer.

19 A. If I would have known what it
20 was. If I would have known it was diesel
21 or something, yeah, I would have reported
22 it.

23 Q. To the gentleman who
24 identified himself as being from

1 Sovereign.

2 A. Correct.

3 Q. Okay. So if you sensed that
4 there was some environmental issue on the
5 site that he hadn't told you about, you
6 know, you would have reported it to him?

7 A. If I would have known. But I
8 am not an environmental person.

9 Q. Sir, I know you've made it
10 clear you're just a plumber. I'm --
11 I'm -- I'm -- you've said that a couple
12 times.

13 But what I'm getting at is,
14 if you had detected an environmental
15 issue or something you thought might be
16 an environmental issue, you would have
17 reported it to the Sovereign person?

18 A. If I would have saw it, yes.

19 Q. Okay. The next day, did
20 another Sovereign person come?

21 A. Yes.

22 Q. Was it a male or a female?

23 A. I don't remember. I -- I
24 just remember there was a male there one

1 day and there was a female there another
2 day.

3 Q. Okay. You don't remember
4 whether it was the next day or not.

5 A. I know they were there
6 throughout the job.

7 Q. Were they there on Friday?

8 A. Yes.

9 Q. The Sovereign people were
10 there on Friday?

11 A. Hold on. I don't remember
12 Friday.

13 Q. Okay. Well, do you know if
14 the Sovereign people were there on
15 Monday?

16 A. I'm not exactly sure.

17 Q. And the woman who was there,
18 can you describe her, what she looked
19 like? How old she was?

20 A. Younger. She was all bundled
21 up with a hard hat on.

22 Q. And did she talk to you at
23 all about safety issues?

24 A. No.

1 Q. Did she talk to you at all
2 about job site issues?

3 A. No.

4 Q. Did she have any
5 conversations with you at all about what
6 you were going to encounter that day and
7 what you were doing?

8 A. She asked us to sign the
9 log-in form for billing and she asked us
10 how long we were gonna be there 'cause
11 it's cold.

12 Q. Okay. And did she -- what
13 did she do during the day?

14 A. Sat in her car.

15 Q. Did you have any other
16 conversations with her that day?

17 A. When we left.

18 Q. And what was the conversation
19 when you left?

20 A. Sign the paper out.

21 Q. And did you do that?

22 A. Yep.

23 Q. And, again, you didn't read
24 what the paper said?

1 A. No.

2 Q. You didn't read anything
3 above it.

4 A. No.

5 Q. Did you ever talk to anyone
6 else from Sovereign?

7 A. No.

8 Q. About this job or anything
9 related to it.

10 A. No.

11 Q. Did you have any
12 conversations with anyone from Pilot
13 while you were there working over the
14 four days?

15 A. Just talking to people that
16 walked by.

17 Q. Did you know who they are or
18 what their position was with Pilot?

19 A. A maintenance guy and stuff
20 like that. That was about it.

21 Q. Did you talk to any of them
22 about the liquid in the hole?

23 A. No.

24 Q. And let me be more clear.

1 Did you talk to anyone from Pilot over
2 the four days about any liquids in the
3 excavation?

4 A. No.

5 Q. Did you have a tablet with
6 you when you worked on-site there?

7 A. Yes.

8 Q. And that tablet was kind of
9 like an iPad but I think it was made by
10 someone else; right? Or was it an iPad?

11 A. I don't remember what it was.

12 Q. Okay. But it was like a -- a
13 mini computer that you could send emails
14 from.

15 A. Correct.

16 Q. And you could take
17 photographs with it.

18 A. Correct.

19 Q. And the photograph of you in
20 your muddy clothes, that was taken by Mr.
21 Parise.

22 A. Correct.

23 Q. And that was taken with the
24 tablet?

1 A. I'm not sure.

2 Q. Did you email that photograph
3 then to someone?

4 A. (No verbal response.)

5 Q. Or those photographs? I
6 think there was a front and a back.

7 A. Yes.

8 Q. Who did you email them to?

9 A. Kevin Nace.

10 Q. And why did you do that?

11 A. For proof.

12 Q. The -- for proof of?

13 A. To get my reimbursement.

14 Q. For your clothing.

15 A. Yes.

16 Q. Okay. What was Mr. Nace's
17 response to your request for
18 reimbursement?

19 A. Better take a shower.

20 Q. Did he agree that he would
21 reimburse you for those clothes?

22 A. He didn't say nothing.

23 Q. Well, did you press him the
24 next day then after you sent the email?

1 A. No.

2 Q. You didn't follow up at all?

3 A. No.

4 Q. Why not?

5 A. 'Cause I was still on the
6 job.

7 Q. No. What I am saying --
8 okay. So the job ends. You've sent this
9 email to Mr. Nace asking for
10 reimbursement for your Carhartt clothes.
11 Do you ever follow up on that?

12 A. No.

13 Q. Why not?

14 A. 'Cause when I would need them
15 again, I would ask him if he remembered
16 and we would go get new ones.

17 Q. Okay. And did the tablet you
18 held, that had the ability to receive
19 emails too; right?

20 A. Yes.

21 Q. So did there ever come a time
22 when you e-mailed Mr. Nace from the site
23 other than the email related to your
24 clothing?

1 A. I'm sure at one time, yes.

2 Q. During that job?

3 A. Correct.

4 Q. Can you tell me the emails
5 that you recall sending to Mr. Nace
6 during that job?

7 A. I don't remember.

8 Q. Do you remember sending an
9 email to Mr. Nace that says we struck
10 oil?

11 A. Yeah. I think we -- I was
12 joking around with him 'cause we were
13 talking about the -- there was a TV show
14 on about the oil where they were digging
15 in their backyards and stuff. I don't
16 know. It was on the Discovery channel.

17 Q. What do you mean? You have
18 to explain that to me. I'm not sure --

19 A. There was a TV show that was
20 on and they used to strike oil in their
21 backyard and they used to jump up and
22 down and say we're rich.

23 Q. Okay.

24 A. I was just joking around with

1 him when we hit the water and stuff.

2 Q. So when you hit the water,
3 you just kind of said, oh, we struck oil
4 as a joke.

5 A. Yes.

6 Q. Did you send him a picture?

7 A. I'm not sure if I sent him a
8 picture.

9 Q. So is that because the water
10 was bubbling up the same as the oil did
11 on the Discovery channel show?

12 A. It was -- it wasn't exactly
13 like that. It was just our first job
14 that we did an excavation and water came
15 up and we were just talking about that
16 previous -- the previous week. And I
17 just thought it would be funny to send to
18 him.

19 Q. What was the name of that
20 show on the Discovery channel?

21 A. I don't remember the exact
22 name of it.

23 Q. Okay. So you weren't saying
24 it because you actually believed you

1 struck oil or that oil was going into the
2 excavation.

3 A. No.

4 Q. Okay.

5 A. It was just joking.

6 Q. At any time, did Mr. Nace
7 instruct you that you should cease work
8 on the excavation because he was
9 concerned about what was inside the hole?

10 A. No.

11 Q. Did he ever tell you on
12 Monday afternoon, stop working until we
13 pump the hole out, the excavation out?

14 A. (No verbal response.)

15 Q. Let me be more -- more clear.
16 Do you want to say excavation or hole?
17 I'll say -- or do you want to just say
18 either one?

19 A. Either one.

20 Q. Okay. You'll understand it
21 whichever one I use.

22 A. Yeah.

23 Q. Did Mr. Nace -- when -- when
24 you advised him that there was water

1 entering the excavation, did he ever tell
2 you to stop working until a pump truck
3 came?

4 A. No.

5 Q. He did not?

6 A. No.

7 Q. Did you ever tell Mr. Nace
8 that some kind of fluids were -- were
9 go -- were leaching or leaking from
10 that -- that manhole next door into the
11 excavation?

12 A. Yeah. I said the water was
13 running from the manhole into our pit.

14 Q. Was that the only source of
15 the water that was -- was that the source
16 of the water that was bubbling up in the
17 pit, do you think?

18 A. No.

19 Q. That was a different source.

20 A. No. It was just leveling --
21 leveled itself out.

22 Q. How long did that take?

23 A. It didn't take long once we
24 pumped it.

1 Q. So what --

2 A. But then it started filling
3 back up.

4 Q. What -- what day was it that
5 you sensed that water was going from the
6 manhole next door into -- into the
7 excavation?

8 A. That would have been like the
9 first day --

10 Q. Friday?

11 A. -- 'cause that's the --
12 that's the side we exposed first.

13 Q. That was Friday.

14 A. Correct.

15 Q. But that eventually leveled
16 off and the water stopped moving from the
17 manhole into the excavation.

18 A. Correct.

19 Q. Was it water that was moving?

20 A. Yes. Liquid.

21 Q. Well, was it water or liquid?

22 MR. LYNAM: Objection to
23 form.

24 Q. (Continued) Which one was

1 it?

2 A. Liquid.

3 Q. And what -- was that liquid
4 any different than the liquid that was
5 bubbling up?

6 A. No. It was just muddy
7 liquid.

8 Q. Did it smell? Sense
9 anything?

10 A. No.

11 Q. When you were down in that
12 manhole that was next to the excavation,
13 did it have any smell to it?

14 A. Not that I can recall.

15 Q. Did you sense any -- that
16 there were any chemicals in there?

17 A. Not that I recall.

18 Q. Did -- did Mr. Parise make
19 any comment that it had any smell or
20 there were any chemicals in it?

21 A. Not that I remember.

22 Q. Did you inspect that -- that
23 manhole before you started excavation on
24 Friday?

1 A. No.

2 Q. When was the first time that
3 you took the cover off that manhole and
4 looked down into it?

5 A. Friday afternoon.

6 Q. And why did you do it?

7 A. 'Cause we seen the copper
8 line go into it.

9 Q. Well, the copper line went
10 under it; right?

11 A. Yeah. It went in it,
12 underneath and up and in.

13 Q. Okay. Was there a -- was
14 there a -- a rubber tube that connected
15 the copper line to the -- what was the
16 line you called it? Not the PVC line.
17 The poly line in there.

18 A. Poly.

19 Q. Let me reask the question.
20 Was there a rubber connector -- was there
21 rubber or some type of vinyl or something
22 that connected the copper to the poly
23 line within that manhole?

24 A. I don't remember what was

1 connecting it.

2 Q. There was some connection
3 between -- I mean, copper just doesn't
4 naturally connect with poly, though;
5 right?

6 A. No. There's an adapter.

7 Q. Right. Okay. And you had to
8 go out at one point and buy an adaptor;
9 right? Like a Ford coupler or something?

10 A. That was for copper to
11 copper.

12 Q. Okay. Did you buy a
13 separate -- or did Mr. Parise buy a
14 separate adapter for the poly to copper?

15 A. Yes.

16 Q. And what was that called?

17 A. A poly adapter.

18 Q. Okay. Poly adapter.

19 And -- well, he brought that?

20 A. Yes.

21 Q. And why did you buy that?

22 A. Because I don't put a used
23 part back on.

24 Q. Well, okay. I guess my

1 question was: Why -- when did the poly
2 and the copper line within the manhole
3 separate?

4 A. When we pulled the old --
5 when we cut the copper to pull it out
6 from underneath.

7 Q. Okay. So were you going to
8 do a different run with this new copper
9 pipe?

10 A. Yeah. We had to replace a
11 10-, 12-foot section.

12 Q. Okay. So the new copper that
13 you put in, did it still go underneath
14 the wall of the manhole and then come up?

15 A. Yes.

16 Q. Was there a conduit there you
17 ran it through or how did you get it
18 underneath there?

19 A. It was -- it was piled on
20 stone and we dug out the stone and put it
21 up through.

22 Q. You dug out the stone at the
23 bottom of the manhole?

24 A. Yeah. Just like 6 inches, if

1 that.

2 Q. Okay. Were you wet when you
3 were in the manhole?

4 A. (No verbal response.)

5 Q. Was there liquid in there
6 when you worked in there?

7 A. A little bit.

8 Q. What's a little bit?

9 A. Maybe about 3, 4 inches.

10 Q. Did you try to pump that out?

11 A. Yes.

12 Q. Did it replace itself like in
13 the excavation when you pumped it out?

14 A. Yes.

15 Q. Was there one particular day
16 where you spent most of the day in the
17 manhole?

18 A. I don't remember.

19 Q. Was the connection between
20 the poly pipe and the copper pipe in the
21 manhole the last work you did on that
22 job?

23 A. Not the last work.

24 Q. What was the last work?

1 A. Finishing the concrete.

2 Q. Okay. Well, before finishing
3 the concrete, was the connection between
4 the poly and the copper the last work you
5 did?

6 A. No.

7 Q. What was before that?

8 A. The other side of the copper
9 line.

10 Q. You did that -- you did that
11 last?

12 A. Yes.

13 Q. So you did the manhole
14 connection and then the connection within
15 the excavation?

16 A. Yes.

17 Q. By the time that the flowable
18 fill was poured into the excavation, was
19 the connection within the excavation, the
20 copper connection, made?

21 A. Yes.

22 Q. Did anyone ever say to you --
23 anyone at all -- Mr. Parise, Mr. Noone --
24 anyone ever say to you that they were

1 concerned about the liquid that was in
2 the excavation on any of the four days
3 that you were there?

4 A. Not that I can recall.

5 Q. And you didn't have any
6 concern.

7 A. No.

8 Q. Would you take your Carhartts
9 off at the job site at the end of the
10 day?

11 A. Yes.

12 Q. And then throw them in the
13 back of the truck.

14 A. Yeah.

15 Q. Where would you do that at?

16 A. Right on-site.

17 Q. Like, just standing outside?

18 A. Yeah.

19 Q. Did you have to take your
20 boots off to get them off?

21 A. Sometimes.

22 Q. What would dictate whether
23 you had to?

24 A. (No verbal response.)

1 Q. Take your boots off?

2 A. If I wanted to stand there
3 and jump on one foot or just do it real
4 quick.

5 Q. Okay. You mean you'd have to
6 jump on one foot if you took your boots
7 off?

8 A. Well, no. If I would want to
9 struggle taking my Carhartts off over my
10 boots.

11 Q. Oh. Okay. Would you sit in
12 your car when you took them off or sit on
13 your car seat at least when you took them
14 off?

15 A. No. Sit on the bumper of my
16 truck.

17 Q. Okay. So there was -- when
18 you would get to the site each day at the
19 Pilot, would you check in with someone?

20 A. You'd check in at the kiosk.

21 Q. Who manned the kiosk?

22 A. No one.

23 Q. So what would checking in at
24 the kiosk consist of?

1 A. You'd have to type in the job
2 number inside the Pilot and then you get
3 a little printout.

4 Q. Explain to me what you mean.
5 Would you go into the Pilot, like, store
6 they had there?

7 A. Yes.

8 Q. And there was a computer you
9 could type on?

10 A. Yes.

11 Q. Was it designated for
12 contractors or something?

13 A. Contractors, truckers,
14 everybody.

15 Q. And would you log on to a
16 website?

17 A. It was pre -- it was a Pilot
18 in-house thing.

19 Q. Oh. And it would ask you to
20 put what, your name in and your company
21 and then your job number or how --
22 what -- what information would you put in
23 there?

24 A. You give Pilot's number and

1 then you would match it to REMCO's
2 number. Like a PO -- two POs so it would
3 match. And then you would say on-site
4 and then it would ask you what you are, a
5 vendor, contractor, trucker, and it just
6 kept going and going and going.

7 Q. What other questions would it
8 ask you?

9 A. What work you were gonna do,
10 what vendor you were, what contractor you
11 were. Were you on the right site, were
12 you at this site.

13 Q. Was there a similar program
14 that was part of your tablet?

15 A. Not as entailed.

16 Q. Not as detailed?

17 A. Yeah.

18 Q. But the one then on your
19 tablet, you would actually type in a --
20 an indication of when you got to the job
21 site each day?

22 A. Sometimes, yes.

23 Q. Was that mandatory that you
24 do that, though?

1 A. Yeah.

2 Q. All right. And you would
3 type in when you got to the job site.
4 Would you type in what you were doing
5 each day?

6 A. Yeah. At the end of the day.

7 Q. And would you do that
8 yourself? You would type that in?

9 A. Sometimes I did it.
10 Sometimes Tim did it. Sometimes -- the
11 first day, Frank did it.

12 Q. Well, if we have entries that
13 talk about the aboveground plumber versus
14 the underground plumber for this project,
15 which one would you be?

16 A. Both. I did both of them.

17 Q. Okay. But you don't remember
18 how -- was there a typical way that you
19 did your entries? Were there certain
20 words you used all the time or did you
21 use caps or was there --

22 A. I didn't --

23 Q. -- any style you used?

24 A. No.

1 Q. So REMCO provided some
2 records that have just job descriptions
3 and then a name next to them. Have you
4 ever seen those type of records?

5 A. I never seen the -- that end
6 of it.

7 Q. Okay.

8 A. That was office stuff.

9 Q. Did you look at any documents
10 to get ready for your deposition?

11 A. No.

12 Q. No documents? No materials?
13 No one showed you any papers to get ready
14 and read on before your deposition?

15 MR. LYNAM: I just object to
16 the question. You actually --
17 you're not allowed to ask that
18 question in federal court.

19 MR. LAMB: Oh, you're not?
20 Really?

21 MR. LYNAM: No. In state
22 court, you can, but federal court,
23 you cannot. It's attorney-client
24 privilege.

1 MR. LAMB: Learn something
2 new every day.

3 MR. LYNAM: He knew it. He
4 knew it.

5 MR. LAMB: Tom knew it?

6 MR. LYNAM: Yeah.

7 MR. LAMB: Tom --

8 MR. VILLARI: Oh, you weren't
9 at those depositions --

10 MR. HARRINGTON: That's just
11 because I'm so much older than the
12 rest of you.

13 MR. LAMB: I'm not gonna
14 debate that fact. But there you
15 go. See.

16 MR. LYNAM: Yeah.

17 MR. LAMB: New -- learn
18 something every day.

19 BY MR. LAMB:

20 Q. So you haven't seen those
21 REMCO documents that are the printouts of
22 what you did on a particular day or
23 anything like that?

24 A. Not that I can recall, that I

1 remember or anything.

2 Q. So I am going to hand you
3 what we marked as -- we did it Exhibit 1
4 for this deposition. And just -- just
5 take a look at this if you would and tell
6 me if you've ever seen this before.

7 MR. LAMB: Can we get the air
8 turned off?

9 MR. HARRINGTON: Cold now?

10 MR. LAMB: I was never hot.
11 Now I'm freezing.

12 MR. HARRINGTON: Okay.

13 MR. LAMB: Are you cold?

14 MR. VILLARI: (Counsel
15 indicating.)

16 MR. LAMB: Are you -- you're
17 not cold?

18 MR. VILLARI: I'm all right.
19 Are you all right?

20 JOY MARINO: I'm okay.

21 MR. LAMB: It's getting a
22 little chilly.

23 JOY MARINO: It's getting
24 there.

1 MR. LAMB: Yeah.

2 MR. HARRINGTON: I'll take
3 care of it. All right. Go ahead.

4 MR. LAMB: Do you want us to
5 go without you?

6 MR. HARRINGTON: Go without
7 me.

8 - - -

9 (Whereupon, Mr. Harrington
10 left the deposition room.)

11 - - -

12 THE VIDEOGRAPHER: Do you
13 want me to go off?

14 MR. LAMB: No, no. We're
15 going to keep on going.

16 Just take your time to look
17 at that.

18 MR. LYNAM: Any particular
19 piece of it or no?

20 MR. LAMB: No. My first
21 question is has he ever seen it
22 before. Then we'll go through it.

23 THE WITNESS: I don't
24 remember if I seen it.

1 MR. LYNAM: Wait for his
2 question.

3 BY MR. LAMB:

4 Q. That -- that's your first
5 question. Have you ever seen it before?

6 A. I don't remember if I seen
7 it.

8 Q. Okay. Can I grab that back
9 from you?

10 A. Yes.

11 Q. When you were hired at REMCO
12 either time, do you remember being given
13 a safety policy book?

14 A. I remember a handbook.

15 Q. But you don't know if it --
16 if it's this one that I just showed you
17 that's Exhibit 1?

18 A. I don't know if it's that
19 one.

20 MR. LAMB: Okay. We'll make
21 this Marino 1. We can change the
22 sticker.

23 - - -

24 (Whereupon, Mr. Harrington

1 returned to the deposition room.)

2 - - -

3 MR. HARRINGTON: Mike is on
4 his way.

5 Q. When you worked for REMCO,
6 did you think that the company followed
7 the basic objective that people and
8 property are the company's most important
9 company assets?

10 A. Yeah. I guess.

11 MR. LYNAM: No, no, no. We
12 don't want --

13 THE WITNESS: I -- I mean --

14 MR. LYNAM: We don't want you
15 guessing. If they told you that --

16 Q. I can reask the question.

17 A. Yeah. Reask.

18 MR. LAMB: Can you just read
19 it back? 'Cause I don't know if I
20 can formulate it that way again.

21 - - -

22 (Whereupon, the pertinent
23 portion of the record was read.)

24 - - -

1 A. (Continued) Yes.

2 Q. Did -- when you were working
3 for REMCO, did you share the company's
4 goal that the elimination of injuries to
5 people and damage to property was -- was
6 their single goal or your single -- let
7 me ask it a different way.

8 MR. LYNAM: I just object to
9 the form.

10 Q. (Continued) Was one -- was
11 your goal to eliminate the potential for
12 injuries to people when you worked for
13 REMCO?

14 A. It never really crossed our
15 mind. It's not like we -- like I recited
16 that.

17 Q. Okay. So when you were there
18 on Monday, Tuesday, and Wednesday and Mr.
19 Noone was not there, were you the job
20 superintendent?

21 A. (No verbal response.)

22 Q. Would REMCO have designated
23 you as job superintendent?

24 A. No. I was foreman.

1 Q. You were the job foreman.

2 Who was the job
3 superintendent?

4 A. I guess that would be -- I
5 don't know who that would be.

6 Q. Well, there was only you and
7 Mr. Parise on-site; right?

8 A. Correct.

9 Q. So he was not the job
10 superintendent, right, 'cause he was
11 junior to you.

12 A. Yes.

13 Q. Were you aware that REMCO had
14 indicated that the job superintendent was
15 responsible for a continuous survey of
16 his or her operations so that he or she
17 is aware of the principal sources and
18 causes of possible injury or losses due
19 to unsafe physical conditions and unsafe
20 work practices or procedures?

21 MR. LYNAM: Let me just
22 object to the form. You're saying
23 generally that's their position.
24 Not with respect to this job?

1 MR. LAMB: (Counsel
2 indicating.)

3 MR. LYNAM: No, no. What
4 you're saying is are you aware that
5 REMCO said this, that, and the
6 other thing. Are you asking him if
7 somebody from REMCO communicated
8 that to him with respect to this
9 job?

10 MR. LAMB: No, no. I'll ask
11 it again.

12 Q. (Continued) Were you aware
13 that within REMCO's organization, there
14 was a job superintendent for every job?

15 A. No.

16 Q. You were not aware of that.

17 A. We weren't -- it wasn't for
18 every job, no.

19 Q. Were -- were there jobs you
20 were on where there was a job
21 superintendent?

22 A. Construction jobs, yes.

23 Q. Not service jobs.

24 A. No.

1 Q. And construction -- but
2 you -- did you do any construction jobs
3 with REMCO?

4 A. Yes.

5 Q. During your first tenure or
6 second tenure?

7 A. Both.

8 Q. I thought during your second
9 tenure, you were doing mostly the jet
10 work?

11 A. Jet work.

12 Q. But that wouldn't be a
13 construction job.

14 A. No.

15 Q. So during your second tenure,
16 you were mostly doing the jet work. You
17 weren't doing construction projects;
18 right?

19 A. Not much, no.

20 Q. Okay.

21 A. But I still went on them with
22 the jetter and stuff.

23 Q. Oh. So you'd go on to a
24 construction job with the jetter?

1 A. Yeah. We had to jet out some
2 lines.

3 Q. When they were doing new
4 construction?

5 A. Yeah.

6 Q. But if they were new lines,
7 why would they be jetted out?

8 A. Packed with stone from a pipe
9 getting broken off. Gotta blow the
10 stones outs.

11 Q. Okay. So you're saying there
12 was no job superintendent on the job that
13 you were doing at Pilot.

14 A. The superintendent on that
15 job would have been the person from
16 Sovereign that was there monitoring
17 everything.

18 Q. Okay. Did they tell you how
19 to do your job, this person from
20 Sovereign?

21 A. No.

22 Q. Did they stand around the
23 excavation and monitor it continuously
24 for conditions?

1 A. No. But that's what they
2 were there for.

3 Q. How do you know that?

4 A. 'Cause that's what they were
5 for. They were monitoring their job.

6 Q. Who -- who told you that?

7 A. I just assumed. I'm signing
8 their paper for billing. They were in
9 charge of the job.

10 Q. What did they do other than
11 have you sign a paper that indicated to
12 you that -- that Sovereign was in charge
13 of the job?

14 A. That's what I assumed.

15 Q. No. That's not my question,
16 though.

17 What actions did the two
18 people from Sovereign, the man and the
19 woman, do that indicated to you that they
20 were in charge of the job that you were
21 doing?

22 A. (No verbal response.)

23 Q. Other than asking you to sign
24 a sheet of paper at the beginning and end

1 of each day?

2 A. That was it.

3 Q. I mean, you said they didn't
4 even talk to you about what you were
5 doing.

6 A. No.

7 Q. They didn't give you any type
8 of advice on how to do it?

9 A. No.

10 Q. They didn't tell you what
11 tools to use?

12 A. No.

13 Q. And did anyone from Sovereign
14 tell you to stop working?

15 A. No.

16 Q. Did anyone from Sovereign
17 tell you when you could take your breaks?

18 A. No.

19 Q. They didn't tell you when to
20 take lunch; right?

21 A. No.

22 Q. And when to end your workday.
23 That was up to you?

24 A. Correct.

1 Q. And your means and methods of
2 achieving what you were doing was your
3 choice of how you wanted to dig the hole,
4 fill the hole in, fix the pipe, all those
5 things.

6 A. Correct.

7 Q. Okay. So did you feel when
8 you were on the job at the Pilot that you
9 were supposed to conduct a continuous
10 survey of the operations so that you were
11 aware of the principal sources and causes
12 of possible injury or losses due to
13 unsafe physical conditions and unsafe
14 work practices or procedures?

15 A. You always looked out for
16 your safety.

17 Q. Okay. So you did feel you
18 had those responsibilities?

19 A. On the plumbing end of it,
20 yes.

21 Q. Did any of the safety people
22 from REMCO stop by the job site on any of
23 the four days when you were at Pilot?

24 A. No.

1 Q. Did you ask them to?

2 A. No.

3 Q. Did you make anyone in the
4 safety hierarchy at REMCO or any of the
5 safety people aware of the presence of
6 the liquid in your excavation?

7 A. No.

8 Q. Did you think you had a
9 responsibility as the supervisor of Mr.
10 Parise to -- for his individual safety,
11 health, and well-being?

12 A. In a way, 'cause once I got
13 wet, I told him not to get wet.

14 Q. Was that because you were
15 concerned about his well-being? You
16 didn't want him to get wet?

17 A. No. 'Cause once I was wet,
18 there was no need for him to get wet.

19 Q. So was that a safety issue or
20 was that just being a nice guy?

21 A. Nice guy.

22 Q. Okay. But my question was a
23 different question. Did you have a
24 concern for the safety, health, and

1 well-being of Mr. Parise on that job
2 site?

3 A. I didn't have no concerns.

4 Q. Okay. Did you try to ensure
5 the safety, health, and well-being of Mr.
6 Parise when he worked on that job site?

7 A. To an extent.

8 Q. And how did you do that?

9 A. Watched when I was on the
10 excavator and when we were digging,
11 making sure everything was coned off.

12 Q. Okay. Anything else?

13 A. Made sure we had our breaks.

14 Q. Now, was he ever exposed to
15 the liquid that was in the excavation on
16 any of the four days?

17 MR. LYNAM: Objection to the
18 form.

19 Go ahead.

20 Q. (Continued) I'm sorry. I'll
21 be more clear.

22 Was Mr. Parise exposed to --

23 MR. LAMB: You don't like the
24 word exposed?

1 Q. (Continued) Did Mr. Parise --

2 MR. LYNAM: Yeah. I don't
3 know what you mean by that.

4 Q. (Continued) Yeah. Did Mr.
5 Parise ever get wet from the liquid that
6 was in the excavation over any of the
7 four days?

8 A. I don't know.

9 Q. You don't know if he ever
10 was -- stepped into it, stepped into the
11 water, the liquid --

12 A. Well, I don't know if he was
13 wet. He could have stepped in it.

14 Q. Well, would you not get wet
15 if you stepped in it? I mean --

16 MR. LYNAM: I think the --

17 MR. LAMB: Okay.

18 MR. LYNAM: -- problem with
19 the question, Pat, are you talking
20 about his skin or his shoes?

21 MR. LAMB: I'll ask it again.

22 I'll ask it again.

23 Q. (Continued) Did Mr. Parise
24 wear rubber boots on any of the days that

1 he was on the job site?

2 A. I'm not exactly sure if had
3 rubber boots or regular boots on. I
4 didn't pay --

5 Q. He said at one point he put
6 on yellow rubber boots. Do you remember
7 seeing him walking around in yellow
8 rubber boots?

9 A. I don't remember.

10 Q. And he said that also he
11 believed at some point that you put
12 rubber boots on. But you don't recall
13 ever putting yellow boots on.

14 A. No.

15 Q. And you're -- you're sure
16 about that?

17 A. I'm positive.

18 Q. And you don't recall whether
19 he had them on or not?

20 A. I don't remember if he had
21 them on.

22 Q. Did Mr. Noone wear boots at
23 all, rubber boots?

24 A. Don't remember if he had them

1 on or not.

2 Q. Did REMCO ever tell you that
3 it was vitally interested in safety and
4 that you were to look to promote safety
5 within your crew or crews?

6 A. We always looked out for
7 safety. Like I said, we would always
8 look out for something.

9 Q. Did you guys -- did you and
10 Mr. Parise or you, Mr. Parise, and Mr.
11 Noone have a toolbox talk each day before
12 you started work or just a quick talk
13 about what you were going to do and the
14 safety concerns?

15 A. No.

16 Q. Did you ever attend a toolbox
17 talk while you were at REMCO?

18 A. When?

19 Q. Either time. The first or
20 second time you were there. Did you ever
21 attend a toolbox talk meeting?

22 A. Every now and then, we had
23 them.

24 Q. What was every now and then?

1 A. Like when I would be on a
2 construction site, you had them once a
3 week.

4 Q. What about when you were on
5 service sites?

6 A. I don't remember when we had
7 them all.

8 Q. Okay.

9 MR. VILLARI: Do you notice
10 how nice I'm being to you today,
11 Pat?

12 MR. LYNAM: Why? Is it about
13 to end?

14 MR. VILLARI: I was just
15 asking.

16 I have been nice to you
17 today, too.

18 MR. HARRINGTON: (Counsel
19 indicating.)

20 MR. VILLARI: I may need
21 another one of those later.

22 BY MR. LAMB:

23 Q. Was there an instance where
24 Mr. Noone asked you to put a hard hat on

1 on the job site and you did not do so?

2 A. I don't remember.

3 Q. Did -- did REMCO teach you
4 lockout/tagout responsibilities?

5 A. Yes.

6 MR. LAMB: All right. Let's
7 take a break. We're out of video
8 again.

9 THE VIDEOGRAPHER: We're now
10 going off the record. The time is
11 1:32 p.m.

12 - - -

13 (Whereupon, a brief recess
14 was taken.)

15 - - -

16 THE VIDEOGRAPHER: Now back
17 on the record. The time is 1:36
18 p.m.

19 BY MR. LAMB:

20 Q. Mr. Marino, let me say, your
21 attorney just asked if you were okay. It
22 reminds me. If there's a time when you
23 get to -- where you say to yourself, I
24 need to take break or I need to stop, you

1 don't have to be Cal Ripken or the iron
2 man here. You know what I mean? Just
3 whatever we've got to do, we will -- we
4 will accommodate you.

5 I don't want you -- I don't
6 want you to get to a point where you're
7 so tired you have to say, the last 20
8 minutes of what I said, I don't even know
9 what I was saying. Do you know what I
10 mean?

11 A. All right.

12 Q. So just make sure you're
13 okay.

14 A. Yeah.

15 Q. It does us no good if you're
16 not with us and, you know, understanding
17 what's going on.

18 Sorry. I just have to
19 swallow.

20 In the safety policy for
21 REMCO, they have a section 10. And it
22 says: List of hazardous chemicals. And
23 I'll be happy to show it to you and I am
24 not going to try to trick you. I just

1 want to ask you some questions generally
2 before you look at it.

3 Did the -- did anyone from
4 REMCO give you any what's called material
5 safety data sheets for any of the jobs
6 you ever did for them?

7 A. Not that I can recall.

8 Q. Okay. And material safety
9 data sheets are also abbreviated as MSDS
10 sheets. Did anyone ever give you any
11 MSDS sheets from REMCO?

12 A. Not that I can remember.

13 Q. When you went to Pilot to do
14 the work at this gas station that
15 obviously had gasoline and diesel, did
16 anyone from REMCO give you any type of
17 information just about the safety aspects
18 of gasoline or diesel?

19 A. No.

20 Q. Okay. And I think you've
21 already testified no one talked to you
22 about that either.

23 A. No.

24 Q. Did anyone ever give you an

1 MSDS for the primer and the glue that
2 would be used on PVC piping?

3 A. It was probably put in our
4 trucks.

5 Q. Did you ever see it?

6 A. Not that I remember.

7 Q. All right. Did anyone ever
8 give you an MSDS for the flux or for the
9 solder that you would use on copper
10 pipes?

11 A. Probably if there was one, we
12 probably had it in our truck somewhere.

13 Q. Or -- but you don't know.

14 A. I don't know.

15 Q. The jetting that you did --
16 let me -- let me jump away from this
17 hazardous chemicals. We'll come back to
18 it.

19 But the jetting work that you
20 did, explain to us what that is. Like,
21 you get to a job site. Tell us what the
22 machine is, how you would set it up, what
23 would be shot through the pipes, kind of
24 what happened there.

1 A. It's just a tank that holds
2 like 500 gallons of water and it goes
3 through a motor that creates pressure
4 like a pressure hose. Pressure washer.
5 But instead of having a handle on it, the
6 handle's back at the machine. You stick
7 it in the plumbing pipe, push it down,
8 turn it on, and it takes off.

9 Q. And it just shoots everything
10 out of the pipe.

11 A. 4300 PSI of water.

12 Q. Wow. Okay. So is that
13 gas-driven, that pump?

14 A. It's diesel.

15 Q. Diesel.

16 A. (Witness nods head.)

17 Q. And would you have to fill
18 that up when you did the jetting?

19 A. Not much. Didn't use much --
20 every now and then, you'd have to fill
21 it, of course.

22 Q. So you would go jet a line
23 at, like, a supermarket or -- or a big
24 office building or something like that.

1 A. Yeah.

2 Q. Is that because of natural
3 maintenance of the lines or because the
4 lines are clogged?

5 A. Maintenance and 'cause the
6 line's clogged.

7 Q. Okay. And would you have to
8 warm up the -- the machine, the pump and
9 the motor?

10 A. Yeah.

11 Q. So it would have to run a
12 little time -- warm up before you'd
13 actually start doing the procedure.

14 A. Correct.

15 Q. And how big was the fuel tank
16 on that thing?

17 A. I don't know how many gallons
18 it was.

19 Q. Did you get the impression it
20 was more gallons than, like, a car gas
21 tank?

22 A. No.

23 Q. Okay. So it was probably
24 less than 20?

1 A. Yeah.

2 Q. Did you get the idea it was
3 less than 10?

4 A. I don't.

5 Q. When you would -- when you
6 would gas it up or fill it up with
7 diesel, would you take it straight to the
8 service station or would you use a -- a
9 container of diesel that you had ready to
10 go?

11 A. To the service station.

12 Q. All right. And do you
13 remember how much the average cost was to
14 fill it up?

15 A. 40. 40 bucks.

16 Q. Okay. All right. And you
17 would do that, that jetting?

18 A. Me and I had a helper.

19 Q. And were you -- the jetting
20 that was being done, it seemed like the
21 second time you were at REMCO, which was
22 July 2013 through -- to 2014, you were
23 mostly doing the jetting during that
24 time; right?

1 A. Correct.

2 Q. Now, someone described it as
3 kind of a dirty, messy job, I thought, in
4 one of your performance reviews. Was it
5 a messy job?

6 A. Certain jobs.

7 Q. What would make them messy?
8 I'm -- I'm -- I didn't get -- I got the
9 impression you just kind of put the tube
10 in the pipe and start the machine and it
11 would shoot itself out.

12 A. It would go down the line and
13 the cleanup plug came off and the water
14 would come out and run onto the floor.

15 Q. Oh. So would you have to
16 clean that up then?

17 A. Yeah. You just squeegee it
18 up.

19 Q. Okay. Fair enough. Any
20 chemicals placed into that water?

21 A. No.

22 Q. Did you jet pipes when you
23 originally worked for REMCO from April
24 2008 to December of 2011?

1 A. Yes.

2 Q. Did you do it that whole time
3 you were there?

4 A. Whenever the job arose and
5 you were the one that was given that job,
6 yeah.

7 Q. So your first stint at REMCO
8 was about three and a half years. A
9 little over three and a half years. So
10 how many -- how much of that three and a
11 half years -- what percentage of that
12 would have been doing the jet work?

13 A. Not even a quarter.

14 Q. Not even a quarter. Okay.

15 Was there a place at REMCO
16 where material safety data sheets were
17 kept in the safety department office?

18 A. I'm not sure.

19 Q. Do you know if there was any
20 place at REMCO where they kept material
21 safety -- safety data sheets?

22 A. Not exactly sure where they
23 would keep it.

24 Q. Now, the REMCO safety policy

1 says that -- under employee training--
2 under section 10, which is the hazardous
3 chemical section, indicates that -- and
4 I'll quote this. It says: Initially,
5 all employees may be required to attend a
6 training on hazardous -- or training
7 session on hazardous chemicals in their
8 work area. The training session should
9 cover the following. And then it has a
10 list.

11 And before I go down the
12 list, were you ever brought to a training
13 session by anyone at REMCO to discuss
14 hazardous materials in your work area or
15 hazardous chemicals in your work area?

16 A. I'm not sure if we had a
17 video that we watched when we got hired
18 or -- we watched a whole bunch when we
19 got hired.

20 Q. You don't remember?

21 A. I don't remember.

22 Q. It's possible it happened but
23 you don't remember.

24 A. Correct.

1 Q. And do you remember --
2 whether or not you remember it, do you
3 remember any training you ever received
4 on dealing with hazardous chemicals? At
5 any employer.

6 A. At some of the employers,
7 stay away if it was -- if you thought it
8 was hazardous, stay away and the correct
9 people would be there to determine.

10 Q. Did anyone ever teach you
11 that if you confronted a liquid that you
12 didn't know the source of and didn't know
13 what it was that you should step away
14 from it and get someone and call a
15 supervisor or a safety person?

16 A. Yeah.

17 Q. Who taught you that?

18 A. Well, it's common sense.

19 Q. Okay. So if -- if you were
20 doing a job and you confronted a liquid
21 that you didn't know what it was, you
22 would step away and call a safety person.

23 A. Yeah. If -- if there was
24 nobody there to tell you who it was, yes.

1 Q. Tell you what it was, you
2 mean.

3 A. Yes.

4 Q. Okay. So there was no
5 training session where anyone indicated
6 to you or reviewed the chemicals that
7 could be present in your workplace
8 operations while you were at REMCO.

9 A. I'm not saying that they
10 didn't. I just don't remember exactly --

11 Q. Okay. Let me ask you a
12 question I haven't asked you today.
13 Has -- does your kidney condition and the
14 dialysis that you get, does that affect
15 your memory at all or do any of the
16 medications you're taking affect your
17 memory?

18 A. Yes.

19 Q. How do they affect your
20 memory?

21 A. (Witness indicating.)

22 Q. If you know. Or has someone
23 described it to you?

24 A. I don't know exactly what it

1 is. It's...

2 Q. Do you feel your memory is
3 not as good as it used to be?

4 A. Sometimes.

5 Q. Okay. So if I were to show
6 you -- if someone from REMCO were to
7 say -- come in and say, no, hey, listen,
8 Mr. Marino, he definitely received this
9 training session on hazardous chemicals,
10 there's no question in my mind that we
11 taught him all this stuff, would you be
12 able to debate them at this point or
13 would you -- would you disagree with them
14 that they did that?

15 A. I wouldn't -- like I said, we
16 did a whole bunch of safety stuff in the
17 beginning. It was a whole day. You sat
18 there for eight hours and watched videos.

19 Q. But you don't remember it
20 now.

21 A. Yeah. I don't remember it.

22 Q. Did you have any trouble --
23 to your memory, did you have any trouble
24 understanding those videos or those

1 instructions at the time that you
2 received them?

3 A. No.

4 Q. Okay. Working at this Pilot
5 gas station, was that a routine thing for
6 you or was that something different than
7 you normally did at REMCO?

8 A. What do you mean by...

9 Q. Sure. And -- and the safety
10 manual talks about nonroutine tasks. I
11 guess there are certain routine tasks
12 that you did all the time --

13 A. Yeah.

14 Q. -- like the jetting of the
15 lines and certain nonroutine tasks.

16 And what I'm asking is, let's
17 be specific and say going to a gas
18 station, excavating out a hole, and going
19 down into that hole and also going down
20 into a manhole next to it, was that a
21 routine task for you or was that
22 something kind of unique that you hadn't
23 done that often?

24 A. We haven't done that often.

1 Q. Had you ever gone down into a
2 manhole at a gas station before March
3 2014?

4 A. Not at a gas station, no.

5 Q. Had you ever excavated soil
6 or dug -- dug a pit or excavation or hole
7 at a gas station before March of 2014?

8 A. Not that I can remember.

9 Q. Okay. So if I -- if I said
10 that that work was nonroutine for you,
11 meaning it wasn't something you routinely
12 did, would that be fair?

13 A. Correct.

14 Q. Okay. And REMCO says that if
15 you were doing something, meaning, you,
16 Mr. Marino, their employee, that was
17 nonroutine, that prior to starting the
18 work on that project, each affected
19 employee, meaning you, Mr. Marino, will
20 be informed by the safety director about
21 hazards to which they may be exposed and
22 appropriate protective safety measures.
23 For instance, using a respirator or
24 getting proper ventilation.

1 Did anyone from REMCO, the
2 safety director or anyone else, talk to
3 you about the hazards that you may be
4 exposed to at Pilot?

5 A. No.

6 MR. LAMB: I'll leave this
7 right there.

8 Q. I'm going to hand you what
9 we've marked as Marino 2. Make sure your
10 counsel sees it, too.

11 MR. LYNAM: What --

12 MR. LAMB: And just let me
13 hold it before I do.

14 MR. LYNAM: Yeah.

15 Q. (Continued) This is a listing
16 that's titled the following is a summary
17 of the REMCO Inc. Safety Program and
18 Training. This was contained in the
19 materials that we received that come --
20 that were your employment file from
21 REMCO.

22 So what I'm going to ask you
23 is -- I'm going to show it to your
24 attorney first. He's going to take a

1 look at it. But then when you get it, I
2 want you to tell me if you recall going
3 through all of these safety topics or if
4 this is any -- in any way refreshes your
5 recollection as to the safety topics that
6 REMCO taught you when you worked there on
7 the first or second time.

8 MR. LAMB: (Counsel
9 indicating.)

10 MR. LYNAM: Thanks.
11 Uncomfortable chairs.

12 MR. LAMB: Well, why don't we
13 take a second and go switch the
14 chairs. I -- I mean, there --
15 there's a ton of nice chairs in the
16 next room.

17 MR. LYNAM: It's okay.

18 MR. LAMB: I couldn't do it.
19 I mean, my back and my hamstring is
20 so bad, I -- I just couldn't do it
21 after two hours. It was killing
22 me.

23 BY MR. LAMB:

24 Q. Okay. Let's go back.

1 There's a question pending, but I'll
2 restate and rephrase the question.

3 Looking at what we marked as
4 Marino 2, does that refresh your
5 recollection in any way as to the safety
6 training you received from REMCO?

7 A. Yes.

8 Q. Tell me how it refreshes your
9 recollection.

10 A. I remember going through some
11 of it.

12 Q. Okay. What do you remember
13 going through?

14 A. The lockout/tagout. The
15 forklift. The safe driving. The scissor
16 lifts. Vehicle reports.

17 Q. Okay. Do you remember the
18 workplace safety DVD or DVDs indicated in
19 the first paragraph there?

20 A. What sticks in my mind is
21 forklift training.

22 MR. HARRINGTON: Is what?

23 THE WITNESS: The forklift
24 training.

1 Q. That's fine. I mean,
2 sometimes -- yeah. You never know what's
3 going to stick in your mind; right?

4 A. Yeah.

5 Q. Okay. So we're done with
6 that. You can -- you can hand that back
7 to me if you would, please, and I'll put
8 that in the pile here. Thank you.
9 Unless you need to look at it.

10 A. (Witness indicating.)

11 Q. This is -- we've marked this
12 as Marino 4 and this is a truck report.
13 And tell us what this is if you recall,
14 please.

15 MR. LYNAM: (Counsel
16 indicating.)

17 MR. LAMB: Oh. Sorry, Tom.

18 A. The good old truck reports.

19 Q. I'm sorry. Do you know what
20 it is?

21 A. Yes.

22 Q. Oh. Could you tell us what
23 it is?

24 A. It's the truck reports.

1 Q. How about a little more
2 detail than that, Mr. Marino.

3 MR. LYNAM: Ask him for
4 detail.

5 Q. (Continued) Could you provide
6 us a little more detail than that?

7 A. You got a -- I believe it was
8 either at the 1st of the month or the end
9 of the month and you have to put down all
10 your vehicle information and go down and
11 check what was working and what was not.

12 Q. Did REMCO ever have something
13 similar to that but for safety equipment
14 where each month you'd have to check off
15 what safety equipment you had on your
16 truck?

17 A. Not that I remember.

18 Q. Okay. Did -- how did REMCO
19 confirm that you had the necessary safety
20 equipment to do your job?

21 A. When you were hired, you were
22 given earplugs, goggles, and a hard hat.

23 Q. Okay. And they just assumed
24 you kept those the whole time.

1 A. Correct.

2 Q. They didn't give you gloves?

3 A. Yes. Well, yeah, gloves.

4 Q. Oh. They gave you gloves.

5 A. Yes.

6 Q. And describe those gloves
7 again. Were they -- you said something
8 like they had a rubber palm and a cloth
9 back? I don't want to mischaracterize
10 them. Just tell me how they were.

11 A. You can go to Home Depot and
12 get whatever gloves -- like leather
13 gloves or the rubber gloves.

14 Q. And they would reimburse you,
15 REMCO?

16 A. You would just put it on your
17 company credit card.

18 Q. Okay. And did you on any of
19 the four days you were working at Pilot,
20 ever go back to Home Depot to get
21 different types of gloves to work in that
22 situation?

23 A. No. I had a -- you could buy
24 them by bulk. And I -- once every so

1 often when I'd run low, I would go get
2 new ones. So I had those.

3 Q. Was it those -- I think I use
4 the same ones. The gray fabric ones
5 where the inside is, like, a -- it's
6 either a gray or a red rubberized thing
7 and the back of it is just, like,
8 loose-knit cloth?

9 A. Correct.

10 Q. And they just come in, like,
11 small, medium, large?

12 A. Yes.

13 Q. You buy like 6 pairs for 10
14 bucks or something?

15 A. Yes.

16 Q. Okay. They're disposable
17 basically.

18 A. Yes.

19 Q. Okay. So they're not
20 waterproof.

21 A. No.

22 Q. I want to bring you back to
23 the excavation for a second. When --
24 you -- you seem to have said a couple

1 times that the liquid in the -- in the
2 excavation was up to your knees?

3 A. (Witness nods head.)

4 Q. How did you ever access the
5 pipe to fix it?

6 A. You would dig the hole deeper
7 than what you needed.

8 Q. Okay.

9 A. And then put the pump in
10 there and do your work.

11 Q. But didn't you tell me that
12 your first -- your own pump broke.

13 A. Yes.

14 Q. So it was the pump truck
15 pump.

16 A. Yes.

17 Q. So are you saying the pump
18 truck could pump enough liquid out that
19 you could do the work?

20 A. Yes.

21 Q. So how much liquid -- while
22 you were actually doing the pipe repair,
23 how much liquid was in the excavation?

24 A. The whole pit was solid mud.

1 Q. But that wasn't my question.
2 My question was: While you were actually
3 doing the -- you were actually working on
4 the pipe, putting the coupling in,
5 attaching the two pieces of copper in
6 that excavation, how much water -- how
7 much liquid was in that excavation?

8 A. It was maybe... almost knee
9 height. 'Cause like I said, we dug the
10 hole deeper than what we really needed.
11 That way, we could have -- be able to
12 work.

13 Q. Well, I guess what I don't
14 understand was -- was the -- so even
15 while the truck was pumping, the -- the
16 liquid in the hole was still knee height?

17 A. Well, yeah. 'Cause you would
18 sink in the mud and the water would fill
19 it in. That's how it was...

20 Q. So this -- this pump -- this
21 giant pump truck is there and it's
22 pumping full steam but it's not able to
23 keep up with the liquid that's coming
24 into the hole?

1 A. Well, 'cause then it would
2 suck the mud and then it would have to
3 get moved into a different hole till that
4 hole filled up. And you'd move it back.
5 You were moving it back and forth.

6 Q. Was there more than one --
7 more than one bottom to the excavation?

8 A. Yeah. I'd put a couple
9 scoops in for -- you want to make a low
10 point. That way, the water will go to
11 the low point first.

12 Q. So are you saying that there
13 was enough water that it filled up your
14 low point and then started filling up
15 your work area, too?

16 A. Yes.

17 Q. So if your work area got to
18 knee height, your low point might have
19 been to waist height?

20 A. Yes.

21 Q. So that's a lot of water.

22 MR. VILLARI: Objection.

23 MR. LYNAM: Objection to the
24 form.

1 Q. I mean, am I wrong? Is
2 that -- if it's up to waist height in one
3 part of the excavation and knee height in
4 your part of the excavation, that's a lot
5 of liquid in there; right?

6 A. Yes.

7 Q. You can -- if you -- you can
8 keep that or give it back. It doesn't
9 matter.

10 A. (Witness indicating.)

11 Q. Thank you.

12 So at one point, did you
13 apply for workers' compensation from
14 REMCO?

15 A. Not that I remember.

16 Q. Okay. Did you ever put REMCO
17 on notice that you thought that your --
18 the issues with your kidneys were related
19 to work that you did at REMCO?

20 A. Yes.

21 Q. When did you do that?

22 A. I'm not exactly sure when the
23 date was.

24 MR. HARRINGTON: I can't hear

1 you. I'm sorry.

2 THE WITNESS: I don't
3 remember when the date was.

4 Q. Okay. But you did do that.

5 A. Yes.

6 Q. Did you apply for workers'
7 compensation benefits?

8 MR. LYNAM: He -- he just
9 answered that question. I don't
10 think he understands --

11 MR. LAMB: Well, I'm not sure
12 he understood it the first time I
13 asked it. That's why I'm asking it
14 again.

15 MR. LYNAM: I think he still
16 doesn't understand it. So you
17 might want to ask it another way.

18 MR. LAMB: Sure. Sure.

19 MR. LYNAM: Because he's not
20 involved in the application
21 process.

22 MR. LAMB: Well, that's
23 probably -- that's a good point.

24 MR. LYNAM: He's got to talk

1 to his HR person.

2 MR. LAMB: That's a good
3 point. Okay.

4 BY MR. LAMB:

5 Q. So you put REMCO on notice at
6 some point that you thought your kidney
7 issues were related to work you did at
8 REMCO. Is that right?

9 A. Yes.

10 Q. Did REMCO then talk to you
11 about a workers' compensation claim?

12 A. I haven't heard anything.

13 Q. Did -- did anyone from human
14 resources at REMCO talk to you?

15 A. No.

16 Q. Do you know if they talked to
17 your wife?

18 A. I'm not sure.

19 Q. Do you know if they talked to
20 your attorneys?

21 A. I'm not sure.

22 Q. Do you know what workers'
23 compensation is?

24 A. Yes.

1 Q. 'Cause you got workers' comp
2 for your foot?

3 A. Yes.

4 Q. Back when you worked for
5 whomever -- I forget -- Worth & Company
6 or someone, you hurt your foot; right?

7 A. Correct.

8 Q. So have you received any
9 benefits, workers' compensation benefits?

10 A. No.

11 Q. You did apply for short-term
12 disability, though; right?

13 A. Correct.

14 Q. And you got payments through
15 short-term disability?

16 A. Correct.

17 Q. Have you gotten payments from
18 anywhere else since the time that you,
19 you know, developed the kidney issues?

20 A. Short term and Social
21 Security.

22 Q. Are you on Social Security
23 disability?

24 A. Yes.

1 Q. Okay. And how much do you
2 receive from that per month?

3 A. I don't know the exact
4 amount. It's like...

5 Q. Approximately?

6 A. 2100 bucks.

7 Q. Okay. And does your wife
8 work?

9 A. Yes.

10 Q. Where does she work?

11 A. Genesis.

12 Q. And what does she do for
13 them?

14 A. CNA, unit clerk.

15 Q. Okay. And are you able to
16 live on the Social Security disability
17 you receive and her income?

18 A. No.

19 Q. What's your financial
20 situation right now?

21 A. In the dumps.

22 Q. Okay. What do you mean by
23 that?

24 A. I don't have enough money to

1 pay my bills.

2 Q. Okay. Are you still -- do
3 you have a mortgage on your house?

4 A. Yes.

5 Q. Are you able to pay the
6 mortgage?

7 A. No.

8 Q. Okay. Is your house in
9 foreclosure?

10 A. I don't think so. Not yet.

11 Q. Okay. Do your kids -- what
12 school do your children go to?

13 A. My oldest son, 6-year-old,
14 goes to Peters Elementary.

15 Q. Okay.

16 A. And my youngest son goes to
17 Slatington... preschool.

18 Q. So they're -- they're in --
19 there -- there's no tuition associated
20 with those schools; right?

21 A. Preschool, yes.

22 Q. Preschool, there is. Okay.
23 Okay.

24 Are you still able to pay for

1 your son to go to preschool?

2 A. My father's paying that.

3 Q. Okay. And have there -- do
4 you have a vehicle still?

5 A. Yes.

6 Q. How many vehicles in your
7 household?

8 A. One.

9 Q. And whose is that, yours or
10 your wife's?

11 A. It's in my name.

12 Q. And what is it?

13 A. Cadillac SRX.

14 Q. Okay. And are you still
15 paying a loan on that or do you own that?

16 A. Paying on it.

17 Q. Okay. And that's your --
18 that was whose car?

19 A. She drives it predominantly.

20 Q. Well, you had a pickup truck
21 of your own or not?

22 A. No. I had a work truck.

23 Q. Oh. I misunderstood. I
24 thought you had a separate pickup truck.

1 A. No.

2 Q. So did anyone ever inform you
3 that your application for workers'
4 compensation was denied by your employer?

5 A. Yeah. I got a paper for it a
6 long time ago.

7 Q. And did you appeal that at
8 all?

9 A. I don't know.

10 Q. Okay.

11 MR. LAMB: Can you -- after
12 we're done, can you just give me
13 the lowdown on what happened there?

14 MR. LYNAM: Yeah.

15 MR. LAMB: Okay.

16 So this is Noone 1.

17 Unfortunately, our prior court
18 reporter only sent us one-sided
19 copies of Noone 1. So can you take
20 a look at it? I'm going to show it
21 to your client with what we have --

22 MR. LYNAM: Yeah.

23 MR. LAMB: -- but we -- he --
24 we've asked him twice to send us

1 both sides. He only gave us one
2 side.

3 MR. VILLARI: (Counsel
4 indicating.)

5 MR. LAMB: Yeah. Yeah.
6 Yeah. That guy.

7 MR. VILLARI: What is it,
8 Pat?

9 MR. LAMB: It's just a Hazard
10 Communication Quiz 2012.

11 I'm going to hand that to
12 you.

13 Is it getting cold in here
14 again or is it me?

15 MR. HARRINGTON: I asked them
16 to turn it down.

17 MR. LAMB: It's unbelievable,
18 this place.

19 MR. VILLARI: Is this as cold
20 as it was in that pit?

21 THE WITNESS: This ain't that
22 bad.

23 MR. LAMB: I guess I deserved
24 that after all this time.

1 BY MR. LAMB:

2 Q. So can you take a look at
3 that that I've just handed to you?
4 That's been marked Noone 1. And I've
5 placed on the record, it's not a complete
6 copy of Noone 1 because the court
7 reporter has the only copy of that from
8 our prior deposition and hasn't been able
9 to give us the full copy. But we'll --
10 we'll go with what we have and we'll
11 attach this to the record so we can see
12 in the future what we had today.

13 Is that your name at the top?

14 A. Yes.

15 Q. Did you write that?

16 A. Yes.

17 Q. And did you write company
18 division there, REMCO plumbing?

19 A. I might have.

20 Q. It looks like your writing --

21 A. Yeah.

22 Q. It looks like the same
23 writing. Is that you?

24 A. Yeah.

1 Q. And if you see instructor,
2 did you write that name?

3 A. I don't think so.

4 Q. Who -- who's the instructor
5 named there?

6 A. Adam Gsell.

7 Q. Okay. Could you --
8 G-S-E-L-L?

9 A. Yes.

10 Q. Okay. And the date on that?

11 A. 10/29/03.

12 Q. Or '13?

13 A. Yeah. '13. My bad. Sorry.

14 Q. It's okay. And did you write
15 that date?

16 A. Probably, yes.

17 Q. Do you recall taking this
18 quiz?

19 A. I don't remember it exactly
20 but...

21 Q. Since you see your name at
22 the top, do you believe you took this
23 quiz?

24 A. Yes.

1 Q. Did you have to take quizzes
2 while you were at REMCO as a condition of
3 employment?

4 A. When you got hired.

5 Q. Okay. Do you see -- are you
6 able to see on this copy your response to
7 Number 2?

8 A. All of the above.

9 Q. That was your response;
10 right? And what was the question?

11 A. Chemicals -- chemicals can
12 cause injury due to...

13 Q. And what was the third one
14 that was included in all of the above?

15 A. Direct contact with the skin.

16 Q. Okay. Thank you.

17 MR. LAMB: I guess that will
18 be 6. Yep. 6; right?

19 MR. LYNAM: Is that it with
20 this one, Pat?

21 MR. LAMB: That's it with
22 this -- yeah, this one.

23 You don't have the two-sided
24 copy, do you?

1 MR. LYNAM: No. I have Noone
2 1, the same thing you have.

3 - - -

4 (Whereupon, Exhibit Marino 6
5 was marked for identification.)

6 - - -

7 BY MR. LAMB:

8 Q. This is another seven-page
9 quiz that I think was actually included
10 as part of Noone 1. We have both sides
11 of this quiz.

12 I'm just going to ask you if
13 that's -- if -- if you did this quiz and
14 if that's your name at the top?

15 A. Yes.

16 Q. That's your name at the top?

17 A. Yes.

18 Q. And you completed this quiz?

19 A. Correct.

20 MR. LAMB: We'll mark that --
21 let's -- I am not trying to confuse
22 you too much. We'll mark this as
23 Marino 7. I'll write it right here
24 on the Post-it note so you have it.

1 Okay. That's the seven-page test
2 as Marino 7.

3 - - -

4 (Whereupon, Exhibit Marino 7
5 was marked for identification.)

6 - - -

7 MR. HARRINGTON: Are we up to
8 7?

9 MR. LAMB: Yes.

10 BY MR. LAMB:

11 Q. Marino 8. Is this your --
12 this is a Safety Checklist. Is this your
13 signature at the top there?

14 A. Yeah.

15 MR. LAMB: Okay. That will
16 be 8.

17 - - -

18 (Whereupon, Exhibit Marino 8
19 was marked for identification.)

20 - - -

21 Q. Number -- Marino 9 is an
22 Issuance of Personal Protective Equipment
23 form. I'll show this to your counsel and
24 then I'll ask you if -- if that is it

1 your signature on there.

2 - - -

3 (Whereupon, Exhibit Marino 9

4 was marked for identification.)

5 - - -

6 A. Yes.

7 Q. Do you remember signing that?

8 A. Yep.

9 Q. And that was when you were
10 hired back to REMCO in July 2013?

11 A. Yes.

12 Q. Okay.

13 - - -

14 (Whereupon, Exhibit Marino 10

15 was marked for identification.)

16 - - -

17 Q. (Continued) Next is Marino 10

18 that I'll give to you. And this has no

19 title per se but I'll show it to your

20 counsel and then I'll ask you to read

21 off -- to -- to confirm that's your

22 signature first.

23 Is that your signature?

24 A. Yes.

1 Q. And can you read off what you
2 signed to on there?

3 A. I, Jason Marino, agree to
4 read -- read REMCO, Inc.'s safety policy.
5 I understand it and will apply the safety
6 rules at all times while REMCO, Inc.
7 employs me.

8 Q. Did you understand that when
9 you read it?

10 A. Yep.

11 Q. And you understood it when
12 you signed it?

13 A. Yep.

14 Q. Do you remember seeing a
15 DuPont DVD, one that was made by DuPont
16 Chemical?

17 A. I don't remember.

18 Q. I'm going to show you what
19 we're going to mark as Marino 11.

20 Do you see that?

21 A. Yes.

22 Q. And is that your signature?

23 A. Yeah.

24 Q. And when would -- when did

1 you sign that?

2 A. 10/29/13.

3 Q. Okay. So that would have
4 been during your second time at --

5 A. Yes.

6 Q. -- REMCO; correct?

7 A. Correct.

8 Q. And could I see that back,
9 please, if you don't mind?

10 A. (Witness indicating.)

11 Q. Thank you.

12 When -- this first thing
13 that's highlighted -- do you see where it
14 says: This is to certify that I have
15 attended the above training program which
16 has informed me of the following, colon.
17 And then the first one that you signed
18 off on says: The methods and
19 observations that may be used to detect
20 the presence or release of a hazardous
21 chemical in the work area.

22 Do you remember getting that
23 training?

24 A. I don't remember getting the

1 training but...

2 Q. Do you remember the methods
3 and the observations that they taught you
4 that could be used to detect the presence
5 or release of a hazard chemical --
6 hazardous --

7 MR. LYNAM: Objection to the
8 form.

9 Q. -- chemical in the work area?

10 MR. LYNAM: Objection to the
11 form.

12 Go ahead.

13 A. I don't remember.

14 - - -

15 (Whereupon, Exhibit Marino 11
16 was marked for identification.)

17 - - -

18 MR. LAMB: Okay. So just a
19 little cleanup here. Exhibit 10,
20 for some reason, the date was
21 knocked out by the copier. So I'm
22 just going to hand the witness 10-A
23 and ask him if that's his -- his
24 date on there.

1 Do you see what I mean? This
2 one.

3 MR. LYNAM: Yes. Right.

4 MR. LAMB: I don't know what
5 happened.

6 THE WITNESS: Yes.

7 MR. LAMB: Okay. So we'll
8 have 10 and 10-A.

9 - - -

10 (Whereupon, Exhibit Marino
11 10-A was marked for
12 identification.)

13 - - -

14 BY MR. LAMB:

15 Q. Sir, I'm going to hand you
16 Noone 3. Noone 3 is a REMCO Allentown
17 invoice. And this was marked as Noone
18 Exhibit 3. Just give me one second. I'm
19 going to need one second to get the
20 second page.

21 MR. LAMB: Do you have the
22 second page of this handy with you?

23 MR. HARRINGTON: Yeah.

24 (Counsel indicating.)

1 MR. LAMB: Oh. Okay. Okay.
2 Can I borrow that?

3 MR. HARRINGTON: Yeah.

4 MR. LAMB: Then we'll just
5 mark it as an exhibit.

6 So we'll re-mark this. This
7 is actually going to be four pages.
8 We'll mark it as 12. Marino 12.

9 THE COURT REPORTER: (Court
10 reporter indicating.)

11 MR. LAMB: That was 10 --
12 yeah. There's 11 in here. That's
13 11.

14 MR. LYNAM: What are the
15 other two pages?

16 MR. LAMB: I'll show it to
17 you. I'll give them to you.

18 I am not sure all four pages
19 were originally associated with
20 each another. But I also don't
21 want to start tearing apart more
22 exhibits.

23 MR. LYNAM: Oh. Okay. Your
24 next two pages are -- were Noone 4?

1 MR. LAMB: Right. That's
2 what -- yeah, I know. But I'm
3 just --

4 MR. LYNAM: Yeah. Okay.

5 MR. LAMB: Instead of trying
6 to coordinate with Noone -- that
7 whole Noone thing --

8 MR. LYNAM: No, no. That's
9 fine. I just want to be able to
10 follow along. That's all.

11 MR. LAMB: Yeah. Sure.

12 - - -

13 (Whereupon, Exhibit Marino 12
14 was marked for identification.)

15 - - -

16 BY MR. LAMB:

17 Q. So I'm going to hand you what
18 we've marked as Noone 12. Just take a
19 look at that if you could.

20 MR. LYNAM: Noone 12? Marino
21 12.

22 MR. HARRINGTON: Marino.

23 Q. (Continued) Marino 12.

24 MR. LAMB: Keep on me.

1 Q. (Continued) Take a look at
2 that. It's probably going to take you a
3 couple seconds to look through it.

4 - - -

5 (Whereupon, a discussion was
6 held off the record.)

7 - - -

8 BY MR. LAMB:

9 Q. Okay. Are you ready to go?

10 A. Yeah.

11 Q. So looking at the first page
12 of this exhibit -- and I -- I'd ask you
13 to tell me, if you can, whether any of
14 the entries there under description of
15 work are yours.

16 MR. VILLARI: Excuse me.

17 A. The underground plumbing.

18 Q. Which -- now -- now let's go
19 through it. There's work -- there's
20 3/21. Did you have any entries on 3/21?

21 A. (No verbal response.)

22 Q. Do you want me to point it
23 out to you on this?

24 MR. LYNAM: It's the first

1 two paragraphs.

2 Q. (Continued) Yeah. Let me --
3 let me -- can I just -- I'm not trying to
4 be difficult here.

5 The first entry is work
6 performed 3/21, aboveground plumbing. Is
7 that your entry?

8 A. I'm not sure if that one's
9 mine.

10 Q. Okay. Then it says 3 -- the
11 next -- like two paragraphs down, it says
12 3/21/14. Aboveground plumbing upon
13 arrival. And it continues for a whole
14 paragraph.

15 Is that paragraph yours?

16 A. I don't think so.

17 Q. Okay. The next entry seems
18 to be work performed 3/24/14.
19 Aboveground plumbing. And it's one
20 sentence. It starts with: Assisted with
21 digging.

22 Is that your entry?

23 A. I'm not sure.

24 Q. Well, did you assist with

1 digging and cleaning out the hole and
2 exposing the copper waterline?

3 A. Yeah.

4 Q. Would you have written,
5 though, you assisted?

6 A. No.

7 Q. Would -- that probably would
8 have been Mr. Parise?

9 A. Yes.

10 Q. Okay. And then the next one:
11 Underground plumbing in parenthesis. Is
12 that the entry that you believe is yours,
13 where it says: Got to the job, checked
14 in with manager -- or mod, MOD. Then
15 went and started to dig? Is that your
16 entry? Why don't you do this --

17 A. Yeah.

18 Q. I'll give you a
19 highlighter -- I can give you a
20 highlighter and ask you to highlight --

21 A. I'm not exactly sure if it's
22 mine but...

23 MR. LYNAM: Well, okay.

24 So --

1 MR. LAMB: So -- yeah.

2 MR. LYNAM: Can we do it this
3 way --

4 MR. LAMB: I -- I -- I'll
5 instruct him. I'll just --

6 MR. LYNAM: Let's do it this
7 way. Just read all of it. If you
8 recognize any of it as your own,
9 tell us.

10 THE WITNESS: All right.

11 MR. LAMB: Yeah. And mark
12 it.

13 Can I give him this blue pen
14 to mark it? This --

15 MR. HARRINGTON: Do you want
16 a highlighter?

17 MR. LYNAM: Sure.

18 MR. LAMB: Well, a
19 highlighter won't show up on
20 copies. So I'm going to ask you
21 to -- let me just do this. Let me
22 hold this up.

23 Because of the nature of the
24 exhibit, we had to use a substitute

1 exhibit. This already has Noone
2 Exhibit 3 written on it as well as
3 a checkmark. So that's -- before
4 the witness makes any indications,
5 that's on there.

6 I'm going to give him a blue
7 felt-tip pen and ask the witness to
8 in this left-hand side here bracket
9 off anything that he may believe is
10 his -- his entry.

11 BY MS. LAMB:

12 Q. Okay? Do you understand the
13 instructions?

14 A. Yes.

15 MR. LAMB: That's all I want
16 him to do. Anything he believes is
17 his.

18 MR. VILLARI: That he may
19 believe but not with certainty --

20 MR. LAMB: No, no.

21 Believe like has a strong
22 belief that it's yours. Don't
23 guess.

24 MR. LYNAM: You're not --

1 you're not guessing at anything.
2 If you typed it, put a checkmark
3 next to it.

4 MR. LAMB: Right.

5 MR. LYNAM: If you're not
6 sure, then you're not sure. Tell
7 us.

8 A. (Witness indicating.)

9 Q. So you put -- you put more
10 checkmarks.

11 MR. LAMB: And I'll just hold
12 it up on -- on the record. So this
13 blue checkmark was indicated by the
14 witness. Correct, Mr. Lynam?

15 MR. LYNAM: Correct.

16 MR. LAMB: And then this one
17 was too.

18 MR. LYNAM: Both on the
19 left --

20 MR. LAMB: Yes. And the one
21 on the right was preexisting.

22 MR. LYNAM: Correct.

23 BY MR. LAMB:

24 Q. So you've checked off the

1 entry that starts with: Got to job,
2 checked in with MOD. That entire
3 entry -- and -- and the reason I wanted
4 you to bracket it or put lines, can you
5 indicate to me where your entry starts
6 and where it stops?

7 A. (Witness indicating.)

8 Q. Why don't we give you a
9 highlighter. Hold on. It might be too
10 messy now. Here's a highlighter. You
11 can highlight the exact words that are
12 yours, where they start and all the
13 words.

14 MR. LAMB: We'll get a color
15 copy.

16 A. (Witness indicating.)

17 Q. Okay. Thank you very much.

18 MR. LAMB: So we'll -- we'll
19 mark this as Marino 12. And I'll
20 hold this up for the video to see
21 what he's -- so that we can -- even
22 if we have a black and white copy
23 later on, we can see it.

24 Do you got that? Is that

1 okay?

2 THE VIDEOGRAPHER: Yeah.

3 MR. LAMB: Are you getting
4 the detail of everything? Do you
5 need me to hold it closer?

6 THE VIDEOGRAPHER:
7 (Videographer indicating.)

8 MR. LAMB: I don't really
9 want to be on the video, so...

10 MR. LYNAM: Should have worn
11 a tie.

12 THE VIDEOGRAPHER: That's --
13 that's -- that's good. It's not --
14 you can read it but it's not...

15 MR. LAMB: Okay.

16 MR. VILLARI: (Counsel
17 indicating.)

18 MR. LAMB: No. Thanks, Len.
19 Appreciate that.

20 BY MR. LAMB:

21 Q. Do you ever recall making
22 some calls when you were there at the job
23 site at the Pilot?

24 A. I don't remember exactly what

1 calls I made but I would make calls.

2 Q. Well, here, it's -- in the --
3 in the first paragraph, you
4 highlighted -- it says: Made some calls.
5 Right here.

6 Do you know who you called in
7 those calls?

8 A. I probably went into the --
9 or I called my boss, Kevin.

10 Q. Do -- do you remember,
11 though?

12 A. I don't --

13 Q. Do you sit here and remember
14 who you called?

15 A. I don't remember exactly.

16 Q. Okay. Who in your -- and
17 sometimes we ask questions about what you
18 would normally do. Now this is a
19 question of what your practice would be,
20 your normal thing would be. Who would
21 you normally call if you were on a job
22 site and you had a question?

23 A. Kevin.

24 Q. Okay.

1 MR. LAMB: Do you want to
2 take a couple-minute break? I want
3 to use the restroom and just look
4 over my notes and then probably
5 start damages. Unless there is
6 something substantial I want to
7 talk about.

8 MR. LYNAM: Okay.

9 THE VIDEOGRAPHER: Going off
10 the record. The time is 2:23 p.m.

11 - - -

12 (Whereupon, a brief recess
13 was taken.)

14 - - -

15 THE VIDEOGRAPHER: We're now
16 back on the record. This begins
17 DVD Number 3. The time is 2:21
18 p.m.

19 BY MR. LAMB:

20 Q. Mr. Marino, if we were in the
21 courtroom right now and a jury was a
22 across the -- across the room from you,
23 how would you explain to them how your
24 life has changed since your work at the

1 Pilot in March 2014? What would you say?

2 A. It's changed dramatically.

3 Q. Okay. How would -- what
4 details would you provide them?

5 A. I go to dialysis three times
6 a week for three hours. I get a
7 needle -- two needles stuck in my arm the
8 size of IV needles. And I can't do
9 day-do-day activities like I used to.

10 And you're in pain. You
11 can't eat whatever you want. You go out,
12 you can't do whatever you want.

13 Q. What are you limited in terms
14 of physical activity? What are your
15 limits?

16 A. You're tired all the time.

17 Q. Okay. Are you able to have a
18 catch with your kids?

19 A. To what?

20 Q. Have a catch with your kids,
21 like throw a ball with your kids?

22 A. Not every day. The day of
23 dialysis, I can't.

24 Q. Okay. But on nondialysis

1 days, are you able to?

2 A. If I'm up to it.

3 Q. All right. Are you able to
4 assist your wife with the stuff around
5 the house? I think you said you still
6 cut the lawn?

7 A. Yeah.

8 Q. Do you do other things at the
9 house?

10 A. Not really.

11 Q. Do you do any laundry or help
12 out with that?

13 A. No.

14 Q. Any food shopping?

15 A. I'll walk with, yeah.

16 Q. Okay. You can walk to the
17 food store?

18 A. Yeah.

19 Q. Do you carry bags on the way
20 home?

21 A. Sometimes.

22 Q. Or do have one of those
23 roller carts?

24 A. No. If -- it all depends how

1 I feel. Every day's different. It all
2 depends how dialysis went the day before
3 or that day.

4 Q. And you're doing dialysis
5 three days a week?

6 A. Yes.

7 Q. Is there a plan to cut that
8 down at any point?

9 A. No. It's permanent. Till
10 you get a transplant.

11 Q. Okay. Are you able to cut
12 the grass at your house in one session;
13 in other words, when you start, do you
14 finish the same time or in the same day
15 kind of, same session?

16 A. Like, I'll cut the grass and
17 then I'll do the weed trimming later.

18 Q. Okay.

19 A. I'll go in and lay down.

20 Q. You go in and lay down after
21 cutting it and then come back the same
22 day or the next day?

23 A. Sometimes the same day.
24 Sometimes the next day.

1 Q. Have you engaged in any
2 employment at all since you left REMCO?

3 A. No.

4 Q. Have you sought any
5 employment?

6 A. No. Because I can't be --
7 'cause I'm a plumber. And I can't be
8 around bacteria.

9 Q. Okay. Have you tried to find
10 if there are other jobs that you could
11 do?

12 A. No.

13 Q. You have not sought any other
14 part-time employment or anything like
15 that?

16 A. No. 'Cause you don't know
17 how you're gonna feel from day to day.

18 Q. Okay. How many months have
19 you been getting dialysis?

20 A. It's been over a year now.

21 Q. Okay. Was there ever a
22 history in your family of anyone having
23 any type of kidney disease?

24 A. No.

1 Q. Anyone in your family ever
2 have any underdeveloped kidneys?

3 A. Not that I know of.

4 Q. Including yourself?

5 A. (Witness shakes head.)

6 Q. No?

7 A. Not that... no.

8 Q. Okay. Prior to March of last
9 year, did you have any problems with
10 urination or pain in your kidney area or
11 anything like that?

12 A. No.

13 Q. Did you ever see your urine
14 change colors over time, like strange
15 colors or anything like that?

16 A. No.

17 Q. Before the incident, did you
18 ever see any bubbles in your urine?

19 A. No.

20 Q. When you would urinate into a
21 toilet or anything, was there a lot
22 bubbles or anything like that?

23 A. No.

24 Q. None?

1 A. None.

2 Q. Have you heard of any
3 autosomal recessive polycystic kidney
4 disease?

5 MR. LYNAM: Are you serious?

6 MR. LAMB: (Counsel
7 indicating.)

8 MR. LYNAM: Okay. Go ahead.

9 MR. LAMB: It was his -- I'm
10 going to ask him his diagnosis, if
11 he's heard it.

12 Q. (Continued) Has anyone
13 ever -- ever talked to you about
14 autosomal recessive polycystic kidney
15 disease?

16 A. No.

17 Q. Okay. Do you know what that
18 is?

19 A. No.

20 Q. Okay. From 1988 onwards, can
21 you tell me who your family doctors were?

22 A. Dr. Blasiol.

23 Q. And where is Dr. Blasiol
24 located?

1 A. Topton.

2 Q. Okay. When was Dr. Blasiol
3 your family doctor?

4 A. I don't know the exact year.
5 But then Dr. Brennan-Christine. I never
6 went to a doctor. I was never sick.

7 Q. Okay. Dr. Blasiol, is it
8 B-L-A-S-I-O?

9 A. I am not exactly sure.

10 MR. LAMB: Your wife can give
11 me the spelling. Go ahead.

12 JOY MARINO: I'm not exactly
13 sure, but it has an L in there.

14 MR. LAMB: Okay.

15 JOY MARINO: He's Topton
16 Family Medical Practice.

17 Q. (Continued) And where were
18 they located at?

19 A. Topton.

20 Q. No. What street in Topton?

21 A. I don't know.

22 Q. And do you know, was that the
23 most recent family doctor you went to or
24 was that the one in 1988 you went to?

1 A. That's the most recent one.

2 Q. Who was your family doctor
3 before Dr. Blasiol?

4 A. Dr. Brennan-Christine.

5 Q. Brennan -- dash -- Christine?

6 A. Yes.

7 Q. And where was Dr. Brennan-
8 Christine located?

9 A. In Walnutport.

10 Q. Where?

11 A. Walnutport.

12 Q. Okay. And why did you leave
13 Dr. Brennan-Christine?

14 A. 'Cause they split.

15 Q. Dr. Blasiol split?

16 A. No. Dr. Brennan-Christine --
17 their practice went and then, plus, I
18 moved to Topton so he was close.

19 Q. And who was your family
20 doctor before Dr. Brennan-Christine?

21 A. I don't know. It was always
22 Dr. Brennan-Christine.

23 Q. For how many years?

24 A. Since I was -- since I can

1 remember.

2 Q. Had you ever seen a
3 nephrologist for kidney issues before
4 2014?

5 A. I did when I was in junior
6 high.

7 Q. Okay. And what happened when
8 you were in junior high?

9 A. Just routine checkup.

10 Q. You went to a kidney doctor
11 in junior high?

12 A. 'Cause I was gonna play
13 football.

14 Q. Okay. Why did you go see a
15 kidney doctor because you were gonna go
16 play football?

17 A. 'Cause my mom was a worried
18 mom and she read that you can get hit in
19 the kidneys -- that was before they had,
20 like, the kidney pads that you wore and
21 stuff. And she was all worried about the
22 safety and stuff. I had to go get a
23 whole physical before I could play.

24 Q. Who was the nephrologist you

1 went to?

2 A. Lehigh Valley.

3 Q. Lehigh Valley?

4 A. Yes.

5 Q. And where are they located
6 at?

7 A. I don't know where they are
8 anymore.

9 Q. Where were they back then?

10 A. On 15th Street in Allentown.

11 Q. Here in Allentown?

12 A. Yes.

13 Q. And was that a hospital
14 practice or was that -- they were in
15 their own building?

16 A. They were attached to the
17 hospital.

18 Q. Okay. And you're sure they
19 were nephrologists.

20 A. Positive.

21 Q. And what kind of -- what kind
22 of testing did they do on you?

23 A. From what I remember, it was
24 a urine test and one of those machines

1 you sat in and they -- (Witness
2 indicating) -- scanned you.

3 Q. MRI?

4 A. I'm not sure.

5 Q. Was there a lot of banging
6 going on and you were laying on a
7 board --

8 A. I don't remember.

9 Q. No? Okay.

10 A. And I got the clean bill of
11 health to go -- go play football and
12 report it to my mother.

13 Q. Okay. Before the work you
14 did at Pilot, was your diet heavy in any
15 type of carbohydrates, pasta, potatoes,
16 stuff like that? Did you eat a lot of
17 carbohydrates?

18 A. No. I just had a normal
19 diet.

20 Q. Okay. Did you ever notice
21 the consistency of your urine change,
22 thicker to thinner or thinner to thicker,
23 anything like that?

24 - - -

1 (Whereupon, Mr. Lynam left
2 the deposition room.)

3 - - -

4 A. No.

5 Q. Did you ever notice the
6 strength of your urination change before
7 your work at the Pilot center where it
8 was stronger or weaker or anything like
9 that?

10 A. After the Pilot.

11 Q. How did it change after the
12 Pilot?

13 A. I would wake up in the middle
14 of the night to go to the bathroom.

15 Q. And that was different?

16 A. Yes.

17 Q. And how many times per night
18 would you wake up?

19 A. Once or twice.

20 Q. And how many nights per week
21 would you wake up?

22 A. Almost every night.

23 Q. And that was different after
24 the Pilot?

1 A. Yes.

2 Q. Did you notice any other
3 changes in your urination after working
4 at Pilot?

5 - - -

6 (Whereupon, Mr. Lynam
7 returned to the deposition room.)

8 - - -

9 Q. (Continued) Anything.

10 A. Not that I remember.

11 Q. What symptoms led you to go
12 to the hospital, St. Luke's?

13 A. The symptoms? I was
14 nauseating -- nauseated. I was vomiting.
15 And I was -- right after the job, I --
16 I'd be driving down the road and
17 everything would go green. And I would
18 just -- (witness indicating). It would
19 go away then.

20 Q. When you say right after the
21 job, do you mean the days after you
22 finished working at Pilot?

23 A. Yes.

24 Q. So that would be March into

1 early April 2014.

2 A. Correct.

3 Q. You'd be driving down the
4 roadway, driving your truck and
5 everything would suddenly appear green?

6 A. Yeah.

7 Q. And then what would happen?
8 Your vision would go away or the green
9 would go away?

10 A. The green would go away.

11 Q. Did you contact a doctor
12 about that?

13 A. No. I just thought I was
14 getting the flu from being in the water
15 and being wet and being in the cold.

16 Q. Well, in the week after you
17 got done at Pilot, late March -- let's
18 look at the three weeks. Late March to
19 maybe middle of April. What were your
20 physical symptoms during that time other
21 than you already told me about your
22 vision changing and seeing things green?
23 Did you have any other physical symptoms
24 between the last day you were at Pilot

1 and the middle of April?

2 A. Nauseated. Stomach always
3 hurt. My appetite wasn't the best. I
4 couldn't eat right and I would throw up.

5 Q. Were those your only physical
6 symptoms?

7 A. And I -- starting, like,
8 daydreaming. Zoning out.

9 MR. VILLARI: I'm sorry.
10 What did you say, Jason?

11 THE WITNESS: Zoning out.

12 MR. LYNAM: Zoning out.

13 MR. VILLARI: Zoning out.

14 Q. When -- what do you mean?
15 When you were watching TV or when you
16 were driving or when you were doing work?

17 A. When I was driving.

18 Q. Okay. So you were distracted
19 easily? Is that what you're saying?

20 A. Yeah.

21 Q. When you were actually
22 on-site at Pilot, on any of those four
23 days, meaning the full 24-hour period of
24 each day -- well, let me make it more

1 clear.

2 Between Friday morning when
3 you got to Pilot and Thursday afternoon
4 when you were finished there, did you
5 ever suffer any burns or rashes on your
6 skin?

7 A. Not that I can remember.

8 Q. Okay. When you were --
9 between Friday and that Thursday -- okay?
10 So we're talking Friday, the 21st, when
11 you first started at Pilot and then
12 Thursday when you were done at Pilot,
13 which is the day after you finished. Did
14 you ever notice any dizziness that you
15 had?

16 A. I was dizzy.

17 Q. When were you dizzy?

18 A. Like, when I would bend down,
19 I would get dizzy. Or sometimes when I
20 was just standing there, I would get
21 dizzy.

22 Q. This is while you were
23 working at Pilot.

24 A. No.

1 Q. Oh. Well, this is what I'm
2 asking. I am asking for the time between
3 the Friday when you started at Pilot and
4 the Thursday morning, when -- the day
5 after you finished. Did you experience
6 any dizziness?

7 A. No. It wasn't until after --
8 like a day after I was there.

9 Q. Okay. So a day after you got
10 done at Pilot, you started to experience
11 dizziness. Describe that to me.

12 A. It would just -- I would just
13 be standing there and I would get,
14 like -- be almost, like, light-headed and
15 then I would just -- I would just stay
16 still and then it would go away.

17 Q. Did it ever cause you to fall
18 down or have any problems?

19 A. No. I mean --

20 Q. You were still able to drive
21 your truck.

22 A. Yes. Till I blacked out the
23 one time and -- (witness indicating) --
24 smacked into the back of a

1 tractor-trailer on the Turnpike.

2 Q. Yeah. I heard about that.

3 Was that -- did you black out or did you
4 fall asleep?

5 A. We think I blacked out.

6 Q. Who thinks you blacked out?

7 A. The cop. But he put it down
8 as I fell asleep.

9 Q. Was there anyone in your
10 vehicle with you?

11 A. No.

12 Q. What time of morning was it
13 that it happened?

14 A. 4:20 in the morning.

15 Q. 4:20 a.m.

16 A. (Witness nods head.)

17 Q. And why had you been up at
18 4:20 a.m.?

19 A. We were doing a night job.

20 Q. Okay. So you were doing a
21 jet job?

22 A. No.

23 Q. Oh. A different job?

24 A. Yeah.

1 Q. What job was it?

2 A. It was a drain repair at a
3 Save-A-Lot.

4 Q. Okay. Who were you working
5 with that night?

6 A. Who was that? Oh,
7 Brickerman.

8 Q. Were you ever diagnosed with
9 anemia?

10 A. When?

11 Q. Any time in your life.

12 A. Anemia meaning what?

13 Q. Low iron, I believe it is, in
14 your blood --

15 A. Now I -- now I am.

16 Q. Now you do?

17 A. Yes.

18 Q. Before -- before you worked
19 at Pilot, did you ever have anemia?

20 A. No.

21 Q. Did you ever -- did anyone
22 ever tell you that you appear to be
23 jaundice, meaning your skin was kind of
24 yellow?

1 A. No.

2 Q. No?

3 A. When I was -- within that
4 month period, yes.

5 Q. You became jaundiced within
6 that month?

7 A. Yes.

8 Q. Who noticed it?

9 A. My wife.

10 Q. Okay. You can take a drink.
11 I'm sorry for asking you questions while
12 you were about to take a drink.

13 A. (Witness indicating.)

14 Q. Were you injured in that car
15 accident when you rear-ended the
16 tractor-trailer?

17 A. No.

18 Q. You didn't make any claim for
19 injuries?

20 A. No.

21 Q. Do you know how fast your
22 vehicle was going when it hit the
23 tractor-trailer?

24 A. My GPS in my truck said I was

1 doing 64 miles per hour.

2 Q. Okay. Do you coach one of
3 your sons in baseball?

4 A. Yes.

5 Q. Which one?

6 A. Giovanni.

7 Q. And the six-year-old?

8 A. That's the six-year-old.

9 Q. Do you still do that?

10 A. I help out.

11 Q. I'm sorry. I'm just trying
12 to find another list of questions that I
13 have in here.

14 You smoked at one point?

15 A. Yes.

16 Q. For about ten years?

17 A. Correct.

18 Q. You still don't smoke; right?

19 A. Every now and then.

20 Q. Okay.

21 A. 'Cause I talked to my
22 transplant coordinator about that. With
23 stress and everything like that, they
24 said not to, like, become a pack-a-day

1 person.

2 Q. So how many cigarettes do you
3 smoke per day right now?

4 A. All depends on the day.
5 Like, on a dialysis day, it's really bad
6 because you feel horrible. And I talked
7 to the transplant about that and they
8 said, you know, it's common 'cause how
9 your body feels. I'll smoke maybe two or
10 three a day.

11 Q. On a dialysis day?

12 A. Yes.

13 Q. And you've been smoking for
14 about ten years?

15 A. Correct.

16 Q. Are you chewing Nicorette gum
17 today?

18 A. No.

19 Q. Oh. Okay. Just checking.

20 Did -- were your kids ever
21 tested for kidney issues?

22 A. No.

23 Q. Did you ever take intravenous
24 drugs?

1 A. No.

2 Q. Okay. Did any doctor ever
3 explain to you why you suffered from
4 acute renal failure other than that one
5 conversation you had?

6 A. No.

7 Q. I'm sorry. I'm looking for
8 one particular thing, sir. I'm trying to
9 see if I can find it.

10 Has your hair loss improved?
11 You -- you complained of some hair loss
12 at one point. Has that improved -- has
13 that stopped, your hair loss?

14 A. Correct.

15 Q. So you're still -- your hair
16 is fine now? You're not losing hair?

17 A. No.

18 Q. At one point, you received
19 three steroid shots. Was that from your
20 family doctor before you went to St.
21 Luke's?

22 A. No. That was for the -- for
23 the hair.

24 Q. Okay. And who gave those to

1 you?

2 A. That was... I forget the name
3 of the place.

4 Q. Do you remember?

5 A. No. I can't remember the
6 name of the place.

7 Q. Okay. Who came with you to
8 the emergency room when you first went to
9 St. -- to St. Luke's in Allentown?

10 A. My father.

11 Q. Did he help giving you a --
12 giving your history to the doctors?

13 A. I'm not exactly sure 'cause
14 when I went in there, the only thing I
15 remember him saying is, you're not gonna
16 make it through the night.

17 Q. The doctor said that to you?

18 A. Yes.

19 Q. Did he tell you why?

20 A. He said I was in kidney
21 failure. I was filling up with toxins.
22 He didn't know how I was walking.

23 Q. Are you on a list to -- to
24 have your kidneys replaced?

1 A. Yes. I'm on the transplant
2 list.

3 Q. And do you know -- has anyone
4 given you an idea of when that will
5 happen?

6 A. It can happen anywhere
7 between now and two more years, three
8 more years. I just gotta sit in dialysis
9 every other day until that happens.

10 Q. Okay. What -- where are you
11 at on the list? I mean, what's your
12 priority level?

13 A. I'm in the top 3%.

14 Q. Is that a nationwide -- like,
15 nationally, you're in the top 3%?

16 A. Nationally, yes.

17 Q. Okay. And they don't give
18 you any estimate as to when that will
19 happen?

20 A. No. There's no actual,
21 you're one, you're two. There's -- it's
22 a myth.

23 Q. Right. Right. Is there
24 anything you can do to improve your --

1 your level on that list?

2 A. Stay healthy.

3 MR. LAMB: Tom, do you want
4 to go?

5 MR. HARRINGTON: If you're
6 done.

7 MR. LAMB: I'm done for now.
8 Yeah.

9 MR. HARRINGTON: Okay.

10 THE VIDEOGRAPHER: Do you
11 want to switch mics?

12 MR. HARRINGTON: Can I have
13 the mic, please?

14 MR. LAMB: Sure.

15 MR. HARRINGTON: How's that?

16 THE VIDEOGRAPHER:

17 (Videographer indicating.)

18 BY MR. HARRINGTON:

19 Q. Mr. Marino, hi. I'll
20 introduce myself again. My name is Tom
21 Harrington and I represent Pilot Travel
22 Centers. Okay?

23 Do you take any prescriptions
24 for your kidney problems? Besides going

1 to dialysis, do you have any
2 prescriptions that you take on a daily
3 basis?

4 A. Yes.

5 Q. How many?

6 A. I take a vitamin, I take a
7 thyroid, and I take a binder.

8 Q. A binder?

9 A. Yes.

10 Q. What's that for?

11 A. It's to -- it binds the
12 phosphorus out of the food.

13 Q. Okay. Do you have side
14 effects from any of those medications?

15 A. Yeah.

16 Q. What?

17 A. Sometimes you get itchy from
18 it. Vomiting from the -- the -- the
19 thyroid medicine. And irritability.

20 Q. Is that it? I don't want to
21 interrupt you. Is that the end of your
22 answer?

23 A. And sometimes memory.

24 Q. Okay.

1 A. Your memory.

2 Q. How often do you -- do you
3 suffer from each one of those side
4 effects that you've just identified?

5 A. The vomiting, I haven't had.

6 Q. In how long?

7 A. In almost a year.

8 Q. Okay.

9 A. To get mad real easy 'cause
10 everything's out of whack, I believe it
11 happens on a daily basis.

12 Q. Okay.

13 A. And itching, you constantly
14 got an itch somewhere.

15 Q. Okay.

16 A. And you just get used to it.

17 Q. When you're in a bad mood and
18 you get angry, how long does it take you
19 to come out of that mood?

20 A. It all depends. I'll go for
21 a walk or I'll just go to bed. Go lay
22 down. 'Cause it's uncontrollable.

23 Q. The anger.

24 A. Yeah.

1 Q. Okay. Who are most of those
2 anger episodes with?

3 A. My wife and my kids.

4 Q. Okay. If I were to use an
5 expression, normal activities of daily
6 life, would you have an idea of exactly
7 what I was talking about?

8 A. Yes.

9 Q. Okay. Can you tell me what
10 activities of normal daily life you
11 cannot do now?

12 A. I can't go to work.

13 Q. Right.

14 A. I can't pay my bills.

15 Q. Yeah.

16 A. I can't help out with stuff
17 around the house.

18 Q. Did you say can't?

19 A. Can't.

20 Q. Okay. I couldn't hear you.
21 That's all right.

22 A. And helping out with the
23 kids.

24 Q. In what respect?

1 A. You know, giving them baths
2 and stuff like that at night and -- some
3 nights, I can. Some nights, I can't. It
4 all depends on the day.

5 Q. Okay.

6 A. And normal activities, like
7 going -- my friend -- my friend races
8 cars. I used to go and do that. I can't
9 do that 'cause all the dirt going around
10 and everything. Can't go fishing.

11 Q. Why is that?

12 A. Because of the bacteria from
13 the fish.

14 Q. Okay.

15 A. I can't go hunting --

16 Q. Okay.

17 A. -- 'cause of the bacteria.
18 If you get something, you can't go
19 cutting something open.

20 Q. Uh-huh.

21 A. I just can't enjoy the
22 summers.

23 And you walk around and
24 everybody looks at you. They think --

1 you know, you wear short sleeves. I'm
2 skinny now and I got this huge vein where
3 they stick needles in. I look like, you
4 know, a junkie.

5 Q. Okay. Before you developed
6 your kidney problems, how often would you
7 go to watch your friend race cars?

8 A. Every -- every weekend.

9 Q. Okay. Before you had your
10 kidney problems, how often would you give
11 your children baths at night?

12 A. Every night, I gave my son a
13 bath.

14 Q. And now you can't do it at
15 all?

16 A. Not every night.

17 Q. But you can do it on
18 occasion?

19 A. Every now and then, yes.

20 Q. Okay. How often did you used
21 to go fishing?

22 A. I would take my -- my oldest
23 son, I would take him every weekend that
24 it was nice out to a lake.

1 Q. So you'd go fishing and do
2 the -- the race cars every weekend?

3 A. That was a Saturday deal.
4 I'd go with the -- my kids in the
5 morning. Spend the afternoon with my
6 wife. Go racing at night.

7 Q. When you say go racing, were
8 you just observing or were you actually
9 racing the vehicles?

10 A. Observing.

11 Q. Okay. Now, are there -- of
12 any of those activities you've just
13 described that you can no longer enjoy,
14 can you enjoy any of them with assistance
15 from your wife or some other person?

16 A. No. 'Cause I can't be around
17 bacteria.

18 Q. Okay. Oh, I forgot. How
19 many times would you go hunting?

20 A. During the seasons.

21 Q. What? Deer?

22 A. Deer. I would go deer
23 hunting. Bear. That was the normal.
24 Deer and bear.

1 Q. Okay. They're about a week
2 or two weeks each?

3 A. Two weeks, one week. All
4 depends on the season and the year.

5 Q. Does anyone other than your
6 wife assist in the normal daily
7 activities that you can't do now? Such
8 as, you know, taking care of the kids at
9 night, giving them baths. Does anyone
10 other than your wife participate in that
11 activity?

12 A. My parents, my grandparents,
13 and my other set of grandparents.

14 Q. They come to your house to do
15 that?

16 A. They'll come to our house or
17 the kids will go to their house.

18 Q. And how often does that
19 happen?

20 A. Every week.

21 Q. For how many days a week?

22 A. Mondays, Wednesdays, and
23 Fridays.

24 Q. Because they're the days that

1 you go for dialysis?

2 A. Correct.

3 Q. Okay. What is -- well, do
4 you know what treatment you will require,
5 if any, whenever you do get a transplant?

6 A. You gotta take immune
7 suppression pills, which they can't tell
8 you how you're gonna be after you take
9 those. It's a steroid and everybody acts
10 different.

11 Q. Do you know of any other
12 treatment that you will have to continue
13 to receive once you get a transplant?

14 A. You -- you got to always
15 watch your diet after a transplant. I
16 mean, you can eat a little bit different
17 than I can now but it's not a cure. It's
18 a treatment.

19 Q. And when you get a
20 transplant, you will be getting one
21 kidney?

22 A. Unless it's an infant under
23 the age of one. Then you get two of
24 them.

1 Q. Okay. To your knowledge, Mr.
2 Marino, did your parents ever take you to
3 Children's Hospital when you were an
4 infant to have your kidneys evaluated?

5 A. Not that I'm 100% sure of.

6 Q. Are -- well, if you're not
7 100%, are you less than 100% sure that
8 they did?

9 A. I... less than 100% sure. I
10 don't know exactly what they...

11 Q. Okay. You don't know exactly
12 what happened?

13 A. Yeah.

14 Q. But do you have some
15 knowledge or inclination that they did,
16 in fact, take you to Children's Hospital
17 for evaluation of your kidneys when you
18 were an infant?

19 A. Yeah. They evaluated.

20 Q. Okay. Now, have your parents
21 ever told you what the results of that
22 evaluation was?

23 A. It was -- there was nothing
24 wrong.

1 Q. And when did they tell you
2 that there was nothing wrong with your
3 kidneys?

4 A. When I was -- I don't know.
5 When I was... before I was a teenager.

6 Q. Before you were a teenager.

7 A. Yeah.

8 Q. Do you know if your mother's
9 insistence that you be examined by a
10 nephrologist before she allowed you to
11 play football in junior high school was
12 because of the consultation that they had
13 had previously at Children's Hospital?

14 A. It probably was, but she
15 wanted to be safe and she didn't want to
16 scare me about anything so...

17 Q. So she never told you when
18 you were going to the nephrologist before
19 playing football in junior high school
20 that her concern was based upon what she
21 was told when they took you to Children's
22 Hospital for evaluation.

23 A. She never really said.

24 Q. She never said that; right?

1 A. Nothing really.

2 Q. Okay. When you went to work
3 for REMCO, did -- and you went through
4 your orientation training -- for want of
5 a better word -- okay? -- for new
6 hires -- I think that's the way they
7 referred to it -- did they ever say to
8 you during your safety training that
9 there was no job that was important
10 enough to risk injury or death?

11 A. I don't remember if they said
12 that.

13 Q. You don't remember.

14 Do you -- you do remember the
15 name of the man who gave you that
16 training, though, right, Mr. -- Mr.
17 Gsell?

18 A. Yes.

19 Q. Okay.

20 MR. HARRINGTON: Now, may I
21 see the exhibits, please? Because
22 I couldn't keep track. We were
23 marking them so quickly.

24 MR. LAMB: (Counsel

1 indicating.)

2 Q. (Continued) Okay. Let me
3 show you what was marked as Marino
4 Exhibit 10-A if I may. Okay? This is a
5 document which you signed that says that
6 you would agree to read REMCO, Inc.'s
7 safety policy.

8 Do you recall if you read
9 that document?

10 A. I'm sure I probably read it.

11 Q. You're sure you did?

12 A. (Witness nods head.)

13 Q. I just want to be sure I
14 heard you right.

15 A. Yeah. I -- I read through
16 it.

17 Q. You read through it.

18 Did you read every page?

19 A. Probably not every page.

20 Q. And why would that be when
21 you said that you're agreeing to read
22 REMCO's safety policy?

23 MR. LYNAM: I'm going to
24 object to the form. It's

1 argumentative. There's not a word
2 in that document that talks about
3 benzene, methylbenzene, gasoline,
4 diesel. None of it. And you're
5 not going to badger this witness.

6 MR. HARRINGTON: I'm not
7 going to badger the witness. You
8 guys are --

9 MR. LYNAM: You're right,
10 you're not --

11 MR. HARRINGTON: -- much
12 better at that than --

13 MR. LYNAM: You're right
14 you're not going to badger the
15 witness.

16 MR. HARRINGTON: -- I have
17 ever, ever been. Okay? So
18 let's -- I'm learning from you two
19 guys how to badger.

20 BY MR. HARRINGTON:

21 Q. Is there any reason why you
22 would not have read everything in that
23 booklet?

24 A. You're just -- you know, they

1 just hand you a stack of papers and say,
2 here you go. Go to work today.

3 Q. Okay. So would you say you
4 didn't think it was necessary or
5 important to do it?

6 MR. LYNAM: Objection to the
7 form. He said he did do it.

8 You're now changing his answer.

9 MR. HARRINGTON: Let's do it
10 again.

11 Q. (Continued) Do you recall if
12 you read every single page in the
13 booklet?

14 A. Not every -- not every single
15 page.

16 Q. Okay. Is that because you
17 didn't think it was important or
18 necessary to do that?

19 A. No.

20 Q. Why was it that you didn't
21 read every single page?

22 A. 'Cause I had to go out and
23 work.

24 Q. Okay. You didn't have time.

1 You had to get on the job.

2 A. Correct.

3 Q. Were you asked by anyone from
4 REMCO, Mr. Gsell or anybody else, whether
5 or not you had, in fact, read it?

6 A. No.

7 MR. VILLARI: And I object to
8 the use of the word badger. I like
9 antagonize better.

10 MR. HARRINGTON: You may use
11 whatever verbalization you prefer.

12 MR. VILLARI: Antagonize. I
13 prefer antagonize.

14 MR. HARRINGTON: Okay.
15 That's good. I didn't bring it up.
16 Remember, you're talking to your
17 partner. He's the one that said
18 badger.

19 MR. VILLARI: Well, he's
20 antagonistic as well. That's why
21 we get along so well.

22 BY MR. HARRINGTON:

23 Q. Did Mr. Gsell ever tell you
24 that if you encountered any situation on

1 a work site that you were not expecting
2 that you should feel free to call him to
3 report that?

4 A. Yes.

5 Q. When you thought you had
6 encountered oil in your pit, did you
7 think it important enough to call Mr.
8 Gsell with that information?

9 A. I called my chain of command.

10 Q. Mr. Nace.

11 A. Mr. Nace.

12 Q. Okay.

13 A. And we found out that that
14 wasn't an oil/water separator 'cause we
15 were going on the maintenance guy that
16 was on the site. And it wasn't an
17 oil/water separator.

18 Q. Maybe you better explain that
19 answer to me again, please. Okay?

20 'Cause I didn't understand your answer.

21 You found out that the oil that you

22 reported to Mr. Nace --

23 A. We thought was oil.

24 Q. Okay.

1 -- was not oil?

2 A. It was not oil and it was not
3 coming from an oil/water separator. It
4 was just sludge coming out from the --
5 the stones. And it was not an oil/water
6 separator 'cause we were going on Billy
7 Bob from the Pilot, the maintenance guy,
8 saying that's what it was. And it was
9 not that.

10 Q. Okay. You mentioned people
11 from Pilot coming over to the excavation
12 site during the time that you were there.
13 And I think you said one of them was a
14 maintenance guy.

15 A. Yes.

16 Q. Is that the gentleman you
17 just referred to as Billy Bob?

18 A. Correct.

19 Q. How did you find out that he
20 was a maintenance person?

21 A. 'Cause he was doing
22 maintenance around the place.

23 Q. What kind of maintenance was
24 he doing around the place?

1 A. He was checking for fuel,
2 make sure a gallon was actually coming
3 out at a gallon. And he knew where all
4 the maintenance stuff in the back was.
5 Where water heaters were. 'Cause we had
6 to bleed it off when we fixed the water
7 main. He knew where everything was.

8 Q. Did you get the impression
9 from talking to him that most of his
10 maintenance duties were with regard to
11 the facility where food and everything
12 else was served rather than being out in
13 the diesel and the gasoline-dispensing
14 areas?

15 A. No. 'Cause he would go out
16 when the truckers would pull the -- the
17 pump off, rip the quick connect off. He
18 would go out and fix those.

19 Q. Did anyone from REMCO ever
20 tell you that if you encountered a
21 substance and were unable to identify it,
22 you should not attempt to clean it up
23 because that was not your job function?

24 A. I don't remember exactly

1 saying that.

2 Q. Something similar to that?

3 A. Similar, yes.

4 Q. Okay. Did they also tell you
5 that if you encountered a situation like
6 that, that you should not clean that
7 situation up, that you should stop
8 working at that site?

9 A. Yeah. If -- if it would
10 arise.

11 Q. If it was what?

12 A. If it would arise.

13 Q. Okay.

14 A. Something like that.

15 Q. Thank you.

16 When you reported oil in your
17 hole to Mr. Nace, did he tell you to stop
18 working in the hole?

19 MR. LYNAM: Asked and
20 answered.

21 But you can answer it again.

22 A. I don't remember what he
23 exactly said. I don't.

24 Q. When you were working for

1 Worth & Company, did you receive a safety
2 orientation program similar to what you
3 received when you were at REMCO?

4 A. Yeah. We would have went
5 through a safety.

6 Q. Okay. When you were
7 testifying earlier about having to fill
8 up equipment that you were taking to a
9 work site before, you know, leaving or,
10 you know, stopping at a gas station in
11 order to do that, did you say that you
12 used to wear gloves when you were pumping
13 the fuel into those pieces of equipment?

14 A. Yeah. You'd just put a pair
15 of -- like those gloves that he explained
16 with the rubber and, like, cloth on the
17 back.

18 Q. Okay. And were you -- did
19 you put those gloves on so that none of
20 the fuel would come in contact with your
21 hands?

22 A. It was just a normal thing
23 that we did when we fueled up the
24 excavators.

1 Q. I understood that it was a
2 normal -- but was the reason that you did
3 it, the reason that it was a normal thing
4 to do, to keep the fuel that you were
5 pumping into the machines from coming in
6 contact with your hands?

7 A. Yes.

8 Q. And were you trying to keep
9 the fuel from coming into contact with
10 your hands because you knew that that was
11 a hazardous substance?

12 A. We knew it was -- you
13 wouldn't -- you didn't want it on 'cause
14 then you would smell. And it was...

15 Q. Did you -- did you have --
16 strike that.

17 When you were wearing those
18 gloves as you were fueling your
19 equipment, was the reason that you were
20 doing it to keep the gas and diesel off
21 your hands because --

22 MR. LYNAM: (Counsel
23 indicating.)

24 MR. HARRINGTON: Go ahead.

1 MR. LYNAM: No, no. Go
2 ahead. I thought you were done.
3 It sounded like you were asking the
4 same exact question and I was going
5 to instruct him not to answer. But
6 I -- I cut you off. So you can ask
7 the part that's going to make it
8 different than the question you
9 just asked a minute ago.

10 MR. HARRINGTON: Why don't
11 you tell me what I was going to ask
12 so I'll avoid the --

13 MR. LYNAM: Go ahead.

14 MR. HARRINGTON: -- problem.

15 MR. LYNAM: No. My mistake.
16 I -- I cut you off. Go ahead.

17 MR. VILLARI: We're
18 antagonistic. We nag people. Why
19 would we help you?

20 BY MR. HARRINGTON:

21 Q. Don't pay any attention.
22 They're fooling around.

23 All right. Let's go back.
24 You said you put the gloves on so that

1 you would not get any of the fuel on your
2 hands; correct?

3 A. Correct.

4 Q. Was the reason that you were
5 trying to avoid getting the fuel on your
6 hands because you knew that it was a
7 hazardous substance and could be toxic to
8 you?

9 MR. LYNAM: Objection.

10 Don't answer the question.

11 You just asked the same exact
12 question. He gave you the answer.
13 He told you the reason. You're not
14 going to sit here and keep asking
15 him the same question until you get
16 an answer you like.

17 MR. HARRINGTON: Okay.

18 MR. LYNAM: Don't answer the
19 question.

20 MR. HARRINGTON: I don't
21 believe that that's a legitimate
22 grounds for instructing the witness
23 not to answer --

24 MR. LYNAM: He gave you the

1 answer.

2 MR. HARRINGTON: -- under the
3 Federal rules of Civil Procedure --

4 MR. LYNAM: Tom --

5 MR. HARRINGTON: -- which you
6 like to quote.

7 MR. LYNAM: Tom, he said that
8 he didn't want to get the smell on
9 his hands. And you're trying to
10 twist that answer into something
11 you can use. And I don't think
12 it's appropriate.

13 MR. HARRINGTON: Well, that's
14 fine, but that's not grounds for
15 giving an instruction to the
16 witness to not answer the question.

17 MR. LYNAM: Yeah. How many
18 times? Can you ask him a question
19 eight times? Nine times? Ten
20 times? How many times under the
21 federal rules, Tom, can you ask the
22 guy the same exact question?

23 MR. HARRINGTON: It wasn't
24 the same exact question.

1 So I hate to do this do to
2 you, Court Reporter, but can you go
3 back to my last question, please.

4 MR. VILLARI: Or the one
5 before that where he asked the same
6 thing.

7 MR. HARRINGTON: I'll settle
8 for the last one, please.

9 MR. VILLARI: Plus, it's not
10 a fair question.

11 MR. HARRINGTON: Let's wait
12 until she asks it and then you can
13 register your objection, too.
14 Okay?

15 MR. VILLARI: Thank you.
16 Can I register my objection
17 first?

18 MR. HARRINGTON: No.

19 MR. VILLARI: All right.

20 - - -

21 (Whereupon, the pertinent
22 portion of the record was read.)

23 - - -

24 MR. VILLARI: My objection is

1 it's not really a fair question
2 because unlike knowing when you're
3 going to pump gasoline that it's
4 actually gasoline, nobody at
5 Sovereign and Pilot tried to
6 explain to him --

7 MR. LAMB: All right.

8 Objection.

9 MR. VILLARI: -- tried to
10 explain --

11 MR. LAMB: Objection --

12 MR. HARRINGTON: Keep going.

13 MR. VILLARI: -- explain to
14 him what the -- what the -- what it
15 was in the hole --

16 MR. LAMB: Lenny, don't make
17 a speech, please.

18 MR. VILLARI: -- and,
19 therefore, you just wasted
20 everybody's time. That's -- that's
21 my objection.

22 MR. HARRINGTON: Okay. Well,
23 we object to your speech and
24 coaching of the witness.

1 MR. VILLARI: Well, I mean,
2 it's -- it's obvious. It's like
3 the big elephant in the room.

4 But go ahead. Answer it --
5 answer it again.

6 MR. HARRINGTON: No, no, no,
7 no --

8 MR. LYNAM: He's not
9 answering the question --

10 MR. HARRINGTON: Are you
11 done? Because there's no sense
12 going on unless you're finished
13 with your speech.

14 MR. VILLARI: I'm done for
15 the moment.

16 MR. HARRINGTON: Okay.

17 BY MR. HARRINGTON:

18 Q. Mr. Marino, can you remember
19 the question or may I have the court
20 reporter read it back again, please?

21 MR. LYNAM: Tom -- Tom,
22 respectfully, I -- he already
23 answered it once. He's not going
24 to answer it again. Can we move on

1 to the next question?

2 MR. HARRINGTON: It's not a
3 valid objection and one that gives
4 rise to the right to direct the
5 witness not to answer.

6 MR. LYNAM: Respectfully,
7 Tom -- and I am not trying to fight
8 with you -- you just asked the same
9 thing. You just asked the same
10 thing. He gave you the answer.
11 Because he didn't want his hands to
12 smell. And then you asked the same
13 exact question again and you're
14 trying to get him to change his
15 answer. We're not doing it. Okay?
16 He's not going to answer this
17 question. If I'm wrong --

18 MR. HARRINGTON: Yes.

19 MR. LYNAM: -- if I'm wrong,
20 file a motion and -- and -- and the
21 judge will tell me I'm wrong and I
22 will -- I will accept that.

23 MR. HARRINGTON: We'll bring
24 him back for another deposition?

1 MR. LYNAM: I will -- I
2 will -- I will respect whatever the
3 judge rules. But I think that it
4 is inappropriate what you're trying
5 to do here.

6 MR. HARRINGTON: Okay.

7 MR. LYNAM: He -- he was
8 asked this question and he gave you
9 an answer. And I think we should
10 move on now.

11 BY MR. HARRINGTON:

12 Q. In -- in your response to one
13 of Mr. Lamb's questions, you said that
14 you were always told that if there was
15 any hazard, you would not be working in
16 that environment.

17 Do you remember that?

18 A. Correct.

19 Q. Okay. What -- how could that
20 rule apply when you didn't know what
21 hazard you were going to experience
22 before you got to the site?

23 A. 'Cause we were
24 subcontractors. If there's a hazard, you

1 would have to explain that in a contract
2 to my employer.

3 Q. Okay.

4 MR. LYNAM: That didn't work.

5 Q. (Continued) Are you on a
6 restricted diet right now?

7 A. Yes.

8 Q. What are you not supposed to
9 eat?

10 A. Phosphorus. Can't have
11 phosphorus. I gotta watch my protein
12 intake. Calcium.

13 Q. (Counsel indicating.) I'm
14 waiting. I'm waiting go for you to
15 finish. That's all.

16 A. You gotta watch -- almost
17 everything you eat, you gotta watch.

18 Q. Okay.

19 A. 'Cause your levels got to
20 stay below a certain thing.

21 Q. Okay.

22 A. Below a certain number or...
23 it's bad for you.

24 Q. Okay. I am not a

1 nutritionist. So can you tell me what
2 foods you avoid because of the phosphorus
3 issue?

4 A. Phosphorus is in almost
5 everything. So that's why you got to
6 take a binder. Like soda, there's
7 phosphorus in it. Meats, when they
8 process it to make it have a longer shelf
9 life, it's a brine that they put it in.
10 It's phosphorus.

11 Q. Okay.

12 A. So you got to watch -- you
13 got to watch what meats you get. You
14 can't have salts. A lot of salts.

15 Q. So do you do a calculation
16 every day to see how much protein and
17 phosphorus you've consumed or is there
18 some other way that you watch the diet?

19 A. The phosphorus, you can't
20 really calculate 'cause a lot of things
21 don't have it -- they'll have it on but
22 not a percentage. But your salt, you
23 watch. And, like, when I -- like, the
24 first month, you're, like, looking it up

1 every now and then to see what you can
2 eat and what you can't. But now you just
3 know what you can eat.

4 Q. Okay.

5 A. No pizzas, you know, stuff
6 like that.

7 Q. And after you get the
8 transplant, you'll have to have somewhat
9 of a restricted diet but not as
10 restricted as it is now?

11 A. Yeah. You can have it but
12 they don't want you to eat pizza every
13 day for lunch. You know?

14 Q. My favorite food.

15 Did Mr. Gsell ever tell you
16 that if you encountered a situation on a
17 job site that you felt required more
18 protective personal equipment than you
19 had, that you should feel free to call
20 him to request it?

21 A. Yeah. You go through your
22 chain -- chain of command.

23 Q. So you -- you would not call
24 Mr. Gsell first? You would call Mr.

1 Nace?

2 A. Yes.

3 Q. And -- okay. Did you request
4 any additional personal protective
5 equipment for the work that you did at
6 Pilot?

7 A. No.

8 Q. When you were operating the
9 excavator on Monday to redig the hole,
10 was Mr. Parise your spotter in the hole
11 to tell you where you could and could not
12 go with the claw?

13 A. He never went in.

14 Q. Never went in?

15 A. He stayed on the back side --
16 well, I shouldn't say he didn't go in.
17 'Cause we ripped out a piece of asphalt
18 which was stone underneath the asphalt
19 and that's where he stayed with the
20 shovels.

21 Q. When you were using the
22 electric pump that you brought to the
23 site, was it running all the time?

24 A. Yeah.

1 Q. And had you or Mr. Noone dug
2 areas of the pit that were lower than
3 most of the pit in order to draw water
4 into them?

5 A. Yes.

6 Q. And were you moving the hoses
7 or whatever you call it on a pump from
8 low point to low point to low point to
9 keep the water level down?

10 A. Yeah. We were moving the
11 pump back and forth.

12 Q. And even with the pump
13 working, the water level was still up to
14 your knees?

15 A. Yes. 'Cause you were
16 sinking.

17 Q. Sinking in mud?

18 A. Uh-huh.

19 Q. When the pump truck showed up
20 on Tuesday -- would that be right?

21 A. (Witness indicating.)

22 Q. I'm asking --

23 A. I don't remember the exact
24 date when it was.

1 Q. Okay. When the pump truck
2 showed up and started pumping out the
3 pit, did it get most of the liquid out of
4 the pit?

5 A. Freestanding liquid. But you
6 still had the liquid within the mud.

7 Q. Within the mud.

8 A. Yes.

9 Q. Okay. And after it stopped
10 pumping, you would go back into the pit
11 to work at trying to fix the broken water
12 pipe?

13 A. No. You were in there the
14 whole time.

15 Q. You were in there the whole
16 time.

17 A. Yes.

18 Q. So did the vacuum pump ever
19 stop pumping out?

20 A. No. It ran the whole time we
21 were there.

22 Q. Okay. Eight, ten hours,
23 whatever it was.

24 A. Yes.

1 Q. Okay.

2 THE VIDEOGRAPHER:

3 (Videographer indicating.)

4 MR. HARRINGTON: And this is
5 as good a place as any.

6 THE VIDEOGRAPHER: Now going
7 off the record. The time is 3:25.

8 - - -

9 (Whereupon, a discussion was
10 held off the record.)

11 - - -

12 THE VIDEOGRAPHER: Now back
13 on the record. Time is 3:25.

14 BY MR. HARRINGTON:

15 Q. While the vacuum pump was
16 there working, I think you said that you
17 would place the hose wherever it was
18 needed?

19 A. Correct.

20 Q. Would that be the two lowest
21 sections that had been dug out to act as
22 a -- a water draw area?

23 A. Correct.

24 Q. Mr. Marino, have you reviewed

1 any of the other depositions that have
2 been taken in this case up to today?

3 A. No.

4 Q. How did you know that the
5 Sovereign people were there to monitor
6 the job?

7 MR. LAMB: Objection to the
8 form.

9 MR. VILLARI: You -- you can
10 answer.

11 THE WITNESS: Oh.

12 A. 'Cause you signed in with
13 them and --

14 Q. 'Cause you signed in with
15 them? Is that what you meant? I
16 couldn't hear you. Sorry.

17 A. Yeah. 'Cause I signed in
18 with them.

19 Q. Okay. When you were working
20 on the broken water pipe, did you ever
21 have to lie on your back in order to work
22 on the -- the pipe?

23 A. Yes. 'Cause where the water
24 pipe went, it went underneath the

1 sidewalk and right at the edge of the
2 sidewalk, they had the DEF lines coming
3 up.

4 Q. What's the word? What's that
5 word?

6 A. DEF.

7 Q. Is that D-E-F?

8 A. Yes.

9 Q. Line?

10 A. Line.

11 Q. Okay.

12 A. Which goes to the pumps for
13 the trucks. And we did not want to hit
14 those. So we had to hand dig that and we
15 had to get around them that I could
16 actually get the tool in there. I had a
17 24-inch pipe wrench to tighten up the --
18 the Ford coupling for the waterline.

19 Q. Okay. Now, when you were
20 lying on your back, were you lying in
21 water or mud?

22 A. Muddy water. It was a little
23 bit of both. I mean, I can't just say it
24 was mud.

1 Q. Okay. Were you under any
2 sort of schedule to finish this job by a
3 certain date?

4 A. I forget the exact date when
5 it was supposed to be done.

6 Q. How were you informed of a
7 date on which it was supposed to be done?

8 A. When we initially went to the
9 job.

10 Q. So when you were dispatched
11 to the job --

12 A. Yes.

13 Q. -- were you told that it was
14 supposed to be done on a date certain?

15 A. Well, they tell you we bid
16 this job for, for instance, three days.

17 Q. Okay.

18 A. That's the time allowed.

19 Q. So they tell you that when
20 you're dispatched to the job.

21 A. Yes.

22 Q. Okay. Were you ever made
23 aware that REMCO submitted a revised
24 invoice to Pilot because of the liquid

1 that you found in your hole?

2 A. I'm not on that end of it. I
3 just...

4 Q. Okay. Were you ever told
5 that the date of completion had been
6 extended by REMCO for any reason?

7 A. No. I'm not on that end.

8 Q. So you worked the whole time
9 you were there --

10 A. Yes.

11 Q. -- under the assumption that
12 it was a three-day job.

13 A. I -- for instance, I said
14 three day. But I don't know exactly how
15 long that job was. I don't remember how
16 long they said it was for. And what I
17 always -- I always -- I never had a
18 problem getting the job done in time.

19 Q. All right. I'm confused now.
20 I just want to make sure of something
21 before I follow up with a question.

22 Were you under the impression
23 that this was a job that was supposed to
24 be completed in three days?

1 A. I don't know how many days
2 that job was.

3 Q. Okay. So when you were
4 dispatched, you did not know how long the
5 job was supposed to take?

6 A. Then I did, but I don't
7 remember --

8 Q. You don't remember now?

9 A. I don't remember.

10 Q. Okay. Thank you.

11 In any of your interviews
12 with any of the physicians that you've
13 seen for treatment of your kidney
14 failure, have you ever recounted to them,
15 told them, about the possibility that you
16 were seen at Children's Hospital as an
17 infant for kidney issues?

18 A. Not that I remember.

19 Q. Okay. Do you know if either
20 of your parents have told any of those
21 doctors?

22 A. I don't know.

23 Q. Okay. When you were going to
24 go out for football in junior high

1 school --

2 A. Correct.

3 Q. -- was that the first time
4 you were ever going to participate in a
5 contact sport?

6 A. No. 'Cause I did wrestling
7 and baseball.

8 Q. What position did you play in
9 baseball?

10 A. Pitcher and second baseman.

11 Q. And as a second baseman, did
12 you ever have to take any runners coming
13 from first base trying to break up a
14 double play hit you?

15 MR. VILLARI: Jesus Christ.

16 Q. (Continued) Do you recall?

17 MR. VILLARI: Wow.

18 A. Normal play.

19 Q. Yeah. That's why I'm asking.

20 A. You wouldn't get hit, though.
21 It was mandatory slide.

22 Q. Okay. Thank you. I didn't
23 know that.

24 A. Yeah.

1 Q. When did you participate in
2 wrestling?

3 A. Junior high. 7th grade year.

4 Q. And did you drop it after
5 that one year?

6 A. Yeah.

7 Q. What is the extent to which
8 you help out in coaching your son's
9 little league team?

10 A. I stand behind where they're
11 hitting and tell them to keep her elbow
12 up, front elbow down, widen your stance.

13 Q. Okay.

14 A. It's T-ball.

15 Q. Okay.

16 MR. VILLARI: Have him send
17 you a video.

18 Q. (Continued) Did you ever
19 repair your own car or the racing cars
20 that you used to go to see on weekends?

21 A. No.

22 Q. Did you order the flowable
23 fill for the Pilot site?

24 A. No.

1 Q. Did you take any photos of
2 the work site while you were working at
3 the Pilot facility?

4 A. Yes.

5 Q. Do you remember how many?

6 A. I don't remember.

7 Q. What were you taking photos
8 of?

9 A. Always take photos of your
10 job site.

11 Q. Okay. Did you take photos of
12 the pit that you were working in?

13 A. Yeah. I took pictures of
14 everything.

15 Q. Okay. And did you send them
16 all to Mr. Nace?

17 A. I believe I did.

18 Q. Okay.

19 A. (Witness indicating.)

20 Q. Excuse me.

21 Did you understand why the
22 soil that was removed from the pit had to
23 be put into a separate Dumpster?

24 A. No.

1 Q. Were you told to do that by
2 Mr. Nace?

3 A. Yes.

4 Q. One of the entries in the
5 invoice that had type -- a description of
6 the work done said that further
7 excavation needed to be done.

8 Do you remember what further
9 excavation needed to be done?

10 MR. VILLARI: Do you want to
11 show him which one we're talking
12 about? What are we talking about?

13 MR. HARRINGTON: Okay. May I
14 see the exhibits again, please, or
15 are they all up here?

16 MR. LYNAM: They're in front
17 of you.

18 MR. HARRINGTON: Okay.
19 It's the one that had four
20 pages. It looks -- starts like
21 this.

22 MR. LYNAM: Nace 3, the front
23 page?

24 MR. HARRINGTON: Yeah, but I

1 don't want the front page. I want
2 all four pages. Remember, we
3 marked a new one today that had
4 four pages to it?

5 MR. LYNAM: Yeah. I -- I
6 don't have it. They're all on your
7 side of the table. I don't have
8 any.

9 MR. HARRINGTON: Okay. I
10 think I found it. Yes. I did.
11 Okay. Sorry.

12 BY MR. HARRINGTON:

13 Q. Let me direct your attention,
14 Mr. Marino, to an entry on Page 3 of this
15 exhibit. It's dated 3/21/14. It says:
16 Work performed. And the name opposite it
17 is -- is Frank P. Noone. Okay? So it's
18 down in this section. I'd like you to
19 take a look at that if you would, please,
20 sir.

21 MR. LAMB: We're not --
22 that's part of the exhibit
23 previously marked; right?

24 MR. HARRINGTON: Yes --

1 MR. LAMB: Okay.

2 MR. HARRINGTON: -- part of
3 the exhibit previously marked.

4 A. That was Frank Noone that put
5 that.

6 Q. Okay. Do you see the section
7 in there where he says: Further
8 excavation needed to be done?

9 A. Yes.

10 Q. Did you know what he was
11 referring to when he said that?

12 A. Yes. 'Cause we only exposed
13 the one side of the pipe.

14 Q. And where was the other side
15 of the pipe? In the vault?

16 A. No. That was the side we
17 exposed first.

18 Q. Okay.

19 A. Down the side of the vault.
20 The other side was underneath the
21 sidewalk somewhere. We didn't know.

22 Q. Okay. Was the excavation
23 site expanded?

24 A. No.

1 Q. So was Mr. Noone wrong when
2 he said that further --

3 MR. LYNAM: Objection to the
4 form. I -- I --

5 MR. HARRINGTON: I'm just
6 asking do you know.

7 MR. LYNAM: No. He --

8 MR. VILLARI: No, no. Just
9 object. That's it.

10 BY MR. HARRINGTON:

11 Q. During the time that you were
12 working on the Pilot project, were you
13 still smoking at that time?

14 A. Yes.

15 Q. Approximately how much per
16 day?

17 A. Less than a half a pack.

18 Q. Less than a half a pack?

19 When you did have a smoke,
20 did you have to get out of the pit in
21 order to do that?

22 A. Yeah. We wouldn't smoke in
23 the pit.

24 MR. HARRINGTON: I think

1 that's all I have.

2 MR. LYNAM: I've got a
3 couple.

4 MR. LAMB: I've got some
5 more. Do you want to wait till the
6 defense side is done and then --

7 MR. LYNAM: Fine with me.
8 Okay.

9 MR. HARRINGTON: Oh. Sorry.

10 MR. LAMB: I just realized I
11 didn't have it.

12 MR. HARRINGTON: I forgot.

13 BY MR. LAMB:

14 Q. Before you got to the Pilot
15 center in March 2014, were you aware that
16 sometimes when people pump gas, they
17 would pull the nozzle out and gasoline or
18 diesel could drip on the ground?

19 A. Yes.

20 Q. Had you -- had that ever
21 happened to you where you pulled the
22 nozzle out and a couple drips fell on the
23 ground?

24 A. Probably.

1 Q. Okay. And while you were
2 doing work at the Pilot center, did you
3 experience any physical symptoms at all
4 other than what you've described already?

5 A. No.

6 Q. So for those four days,
7 including the weekend in between Monday
8 and Friday -- so let's make it six days.
9 For those six days, did you experience
10 any physical changes or physical symptoms
11 at all?

12 A. Not that I know of.

13 Q. Okay. No burning, itching,
14 rashes, shortness of breath, passing out
15 during those six days? Nothing like
16 that?

17 A. Right after, I had the
18 itching and the green and stuff like
19 that.

20 Q. I'm not talking about right
21 after. I am talking while you were there
22 working.

23 A. No.

24 Q. Had you had any prior

1 surgeries before March 2014?

2 A. No.

3 Q. Any times when you spent time
4 in the hospital before March 2014?

5 A. I didn't spend time. When I
6 broke my foot, I was in the ER. That was
7 in the hospital.

8 Q. Okay. But other than that,
9 no -- no other hospital admissions?

10 A. No.

11 Q. Okay. Were you on any
12 medications as of March 2014?

13 A. No.

14 Q. And who was your insurer back
15 when you worked -- back at the different
16 employers that you worked at? I can go
17 through them all. But Worth & Company,
18 do you know who insured you?

19 A. I have no clue.

20 Q. Okay. Is there any family
21 history of cancer in your family?

22 A. Not that I know of.

23 Q. Any history of hypertension
24 in your family? High blood pressure?

1 A. Not that I know of.

2 Q. Were you ever diagnosed with
3 hypertension or high blood pressure?

4 A. Now that I'm on dialysis.

5 Q. Now you are. I understand.

6 Before -- I'm sorry. Before
7 you worked at Pilot, were you ever
8 diagnosed with hypertension or high blood
9 pressure?

10 A. No.

11 Q. Were you ever diagnosed with
12 any cardiovascular or heart issues before
13 you worked at Pilot?

14 A. No.

15 Q. Did you have treatment for
16 any medical conditions in the three years
17 leading up to your work at Pilot in March
18 2014?

19 A. No.

20 Q. No medical issues? Nothing
21 going on?

22 A. No.

23 Q. Okay. Did you have any
24 headaches before March 2014 that were

1 unexplained headaches?

2 A. No.

3 Q. Any low back pain before
4 March 2014?

5 A. No.

6 Q. There was one reference in
7 the records that you might have given a
8 recorded statement at some point. Did
9 you ever give a recorded statement?

10 A. (Witness indicating.)

11 Q. Not to your attorneys. To
12 either the workers' compensation carrier
13 or your employer.

14 A. I don't remember...

15 Q. Okay. And there was a note
16 in your personnel file about traffic
17 violations. Did you have traffic
18 violations while you were driving for
19 REMCO on one of your two employment times
20 when you were there?

21 A. Yes.

22 Q. And what was that -- can you
23 just give us an explanation of what that
24 was?

1 A. It was -- I was speeding on
2 the way home.

3 Q. Oh. It only happened once?

4 A. That I remember.

5 MR. LAMB: Okay. Other than
6 following up with whatever Tom
7 asks, I don't have anything else.

8 MR. HARRINGTON: I have no
9 further questions.

10 MR. LAMB: I mean this Tom.

11 MR. HARRINGTON: I'm sorry.

12 MR. LAMB: Tom, Mr. Lynam.

13 Sorry.

14 BY MR. LYNAM:

15 Q. A couple of quick questions
16 for you.

17 So if you go out to a site to
18 do some plumbing work and the client, the
19 customer, knows about some hidden hazard
20 that you don't see -- maybe some kind of
21 hidden hazard that's maybe underground --
22 is it your expectation as a plumber that
23 that customer is going to tell you about
24 that hazard?

1 A. Yes.

2 MR. LAMB: Objection.

3 MR. HARRINGTON: Objection to
4 the form.

5 Q. And did anybody from Pilot or
6 did anybody from Sovereign tell you that
7 a little more than a month before you got
8 there, they found 2 feet of fuel in a
9 water well right in the area where you
10 were digging?

11 MR. LAMB: Objection to form.

12 MR. HARRINGTON: Objection.

13 Q. (Continued) Did anybody tell
14 you that?

15 A. No.

16 Q. Let -- let me ask you this:
17 So let's talk about your ability to
18 figure out what this stuff was in the
19 hole. Would I be correct to say that
20 REMCO doesn't have an environmental
21 division; correct?

22 A. Correct.

23 Q. REMCO doesn't hire
24 geologists; correct?

1 A. No.

2 Q. So it's also been the
3 testimony that we had in this case that
4 nobody from Pilot and nobody from
5 Sovereign told REMCO about the fact that
6 those two companies knew about the
7 underground fuel.

8 MR. LAMB: Objection to form.

9 If -- if that was the question.

10 Sorry.

11 Q. (Continued) Yeah. If --
12 if -- if Pilot and Sovereign doesn't tell
13 REMCO, is there anybody at REMCO that's
14 qualified to figure out what this
15 substance is and determine that it was,
16 in fact, a hazard?

17 MR. LAMB: Objection.

18 MR. HARRINGTON: Objection.

19 Q. (Continued) You can answer.

20 A. No.

21 MR. HARRINGTON: Badgering
22 the witness.

23 MR. LYNAM: (Counsel
24 indicating.)

1 Q. Let me ask you this: Billy
2 Bob, right, this is the maintenance
3 guy --

4 A. Yes.

5 Q. -- at Pilot.

6 So did Billy Bob ever tell
7 you that they had found fuel in the water
8 well that you guys were digging up?

9 A. No.

10 Q. Okay. How many times do you
11 think you saw Billy Bob while you were
12 there? Was it every day?

13 A. Yeah.

14 MR. HARRINGTON: Objection to
15 the form.

16 Q. And he had never mentioned
17 that to you?

18 A. No.

19 Q. Okay. Did -- do -- do you
20 know who Ina Fukson (phonetic)?

21 A. (No verbal response.)

22 Q. Let me ask you this: Do you
23 remember a Russian manager at Pilot?

24 A. Yes.

1 Q. Okay. Did you ever speak to
2 her?

3 A. Yes.

4 Q. Did she ever tell you that a
5 month -- a little more than a month
6 before you got there, they found fuel in
7 the area where you were digging?

8 MR. LAMB: Objection.

9 MR. HARRINGTON: Object.

10 Q. (Continued) Did they tell
11 you that?

12 A. No.

13 Q. Okay. How about the guy who
14 worked for Sovereign. All right? Now,
15 he -- if I understand what you said, the
16 majority of the time he was there, he was
17 in his car because it was cold; right?

18 A. Correct.

19 Q. Okay.

20 MR. LAMB: Objection.

21 Q. (Continued) Any of the times
22 that he got out of his car to walk over
23 to where you were working, did he tell
24 you that he knew or that Sovereign knew

1 that there was fuel in that area where
2 you were digging?

3 MR. LAMB: Objection.

4 MR. HARRINGTON: Objection.

5 A. No.

6 Q. How about the -- the woman
7 from Sovereign. Did she stay in her car
8 most of the day as well?

9 A. Correct.

10 Q. Because it was cold out?

11 A. Correct.

12 MR. LAMB: Objection.

13 Q. Okay. Any of the couple of
14 times that she may have come over to
15 where you were working, did she tell you
16 that Sovereign knew that there was fuel
17 in that hole?

18 A. No.

19 MR. LAMB: Objection.

20 Q. Okay. So let me ask you
21 this: There is -- you were asked a bunch
22 of questions about, you know, what's a
23 hazard, what's not a hazard. Sovereign
24 prepared a document for Pilot that said

1 that the fuel that was on-site caused
2 kidney damage.

3 Did either Sovereign or Pilot
4 show you that document?

5 MR. LAMB: Objection.

6 MR. HARRINGTON: Objection.

7 A. No.

8 MR. VILLARI: Boy, you ask a
9 lot of objectionable questions.

10 MR. LYNAM: Yeah.

11 MR. VILLARI: They've
12 objected to every one of your
13 questions. I wonder why.

14 MR. LYNAM: I have no idea.

15 Q. Let's talk about Kevin Nace
16 for a couple of minutes. He gave some
17 testimony the other week. And if I had
18 it here, I -- I'd show it to you. But we
19 don't have his transcript yet. So I'll
20 tell you what I remember. And if I get
21 it wrong, I'm sure these gentlemen will
22 object.

23 What -- what he said was that
24 when you first saw the substance kind of

1 bubbling up in the hole, you contacted
2 him. That much you agree with; correct?

3 A. Correct.

4 Q. Okay. And then he said
5 something along the lines of he
6 instructed you to stay out of the hole
7 until it was cleaned up and then he would
8 let you know when it was okay to get back
9 in the hole.

10 Did that ever happen?

11 A. No.

12 MR. LAMB: Objection.

13 MR. HARRINGTON: Objection.

14 Q. Okay. So let me ask you
15 this: Have you ever been on a job with
16 REMCO where you needed a part to come in
17 or another subcontractor had to come in
18 to finish something before you could
19 finish your plumbing work?

20 A. Yes.

21 Q. Okay. And when that happens,
22 does REMCO pay you to stand around and --
23 and do nothing while you're waiting
24 for -- for that thing or do they send you

1 to another job?

2 A. You go to another job.

3 Q. Okay. So based upon the way
4 things worked back at -- strike that.

5 Let me go back.

6 If -- if you are not allowed
7 in the pit and you are not allowed in the
8 manhole next to the pit, is there
9 anything else at that job site for you to
10 do?

11 A. No.

12 Q. Okay. So based upon the way
13 things worked at REMCO back then, if
14 Kevin Nace actually told you to stop
15 working until that area was remediated or
16 cleaned up, you would have been assigned
17 to another job until it was safe to go
18 back?

19 A. Correct.

20 MR. LAMB: Objection.

21 MR. HARRINGTON: Objection.

22 Q. Okay. And that never
23 happened; correct?

24 A. No.

1 MR. HARRINGTON: Objection to
2 that question, too.

3 Q. Let me ask you a couple of
4 questions about the damage piece of this
5 that we really didn't get into.

6 Did you enjoy working?

7 A. Yeah. I liked work.

8 Q. Did you take pride in the
9 ability to work and earn money and
10 support your family?

11 A. Yes.

12 Q. Okay. Tell us about how you
13 feel now that you can't do that.

14 A. It's like you're... I always
15 classify it as a roach living off of
16 everybody. And you can't -- like, your
17 kids want -- back when I was working,
18 your kids wanted a LEGO that was 60
19 bucks, you'd go and get the LEGO. Oh,
20 well. Now, \$60, that's my wife getting
21 to work with gas.

22 Q. Have you had -- have you had
23 any conversations with any health care
24 providers about your life expectancy?

1 A. They haven't really got into
2 it, but it will be shorter. A kidney
3 transplant lasts about 10 to 15 years.
4 That's right around the general vicinity
5 of when my kids will graduate from high
6 school.

7 Q. Tell us about the experience
8 of being on this transplant list and what
9 it means to not yet get a kidney for
10 transplant.

11 A. It's... you just -- you don't
12 know -- like, you go to sit on the
13 machine. It's like playing Russian
14 roulette. Every time that spins, you
15 don't know if your heart's going to
16 explode this time. Made it that minute.
17 That's what it feels like. 'Cause that's
18 what happens to a dialysis patient.
19 You're sitting on the machine and your
20 heart explodes 'cause you're pulling too
21 much blood, your heart's pumping and
22 that's what happens. Heart attack.

23 MR. HARRINGTON: Can you just
24 tell me, what machine are we

1 talking about? The CAT scan?

2 MR. LYNAM: The dialysis
3 machine.

4 THE WITNESS: Dialysis
5 machine.

6 MR. HARRINGTON: Oh. Oh.
7 I'm sorry.

8 Q. Has any medical person
9 explained to you that the longer you're
10 on dialysis, the greater your risks are?

11 A. The longer you're on
12 dialysis, the more you have -- your heart
13 will give out, your veins give out. Your
14 whole body starts to break down. Because
15 dialysis ain't good for you.

16 MR. LYNAM: That's all I
17 have.

18 MR. LAMB: I don't have
19 anything else.

20 MR. HARRINGTON: No
21 questions.

22 MR. LYNAM: You're done.
23 Thank you.

24 THE WITNESS: Yep.

1 THE VIDEOGRAPHER: That
2 concludes the deposition. We're
3 now going off the record. The time
4 is 3:55 p.m.

5 - - -

6 (Whereupon, the witness was
7 excused.)

8 - - -

9 (Whereupon, the videotape
10 deposition concluded at
11 approximately 3:55 p.m.)

12 - - -

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1 CERTIFICATE

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4 I HEREBY CERTIFY that the
5 witness was duly sworn by me and that the
6 deposition is a true record of the
7 testimony given by the witness.

8

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Maura B. Doyle

11

Registered Professional Reporter
and

12

Notary Public

Date: May 26, 2015

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18 (The foregoing certification
19 of this transcript does not apply to any
20 reproduction of the same by any means,
21 unless under the direct control and/or
22 supervision of the certifying reporter.)

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